

# **EXHIBIT F**

[EXECUTION COPY]

**NETPROVISIONING SERVICE AGREEMENT**

between

**GLOBALSERVE COMPUTER SERVICES LIMITED**

and

**CUSTOMER**

Dated \_\_\_\_\_, 200\_

## NETPROVISIONING SERVICE AGREEMENT

This NETPROVISIONING SERVICE AGREEMENT (this "Agreement") is made as of \_\_\_\_\_, 2000 (the "Effective Date") by and between GlobalServe Computer Services Limited, an England and Wales corporation having a place of business at Carmelite 50 Victoria Embankment, Blackfriars, London EC4Y OLS ("GlobalServe"), and [Customer], a \_\_\_\_\_ corporation having a place of business at \_\_\_\_\_ ("Customer") (each a "party," and collectively, the "parties").

WHEREAS, Customer desires to engage GlobalServe to provide certain order fulfillment services to Customer, and GlobalServe desires to provide such services to Customer; and

WHEREAS, the parties desire to enter into this Agreement to set forth the terms under which such services shall be performed.

NOW, THEREFORE, in consideration of the promises and mutual covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

### SECTION 1 DEFINITIONS

1.1. "Affiliate" shall mean any entity controlling, controlled by or under common control with a party, where "control" shall mean (i) the ownership of at least fifty percent (50%) of the equity or beneficial interest of such entity, or the right to vote for or appoint a majority of the board of directors or other governing body of such entity, or (ii) the power to directly or indirectly direct or cause the direction of the management and policies of such entity by any means whatsoever.

1.2. "Approved Line Item" shall mean a Product for which Customer has entered into a pricing arrangement with the Manufacturer of such Product.

1.3. "Catalog" shall mean an on-line catalog of specifications and pricing for Standards that is developed by GlobalServe as part of the Services and that is accessible by Customer on the Website.

1.4. "Confidential Information" of a party shall mean any and all confidential or proprietary information of, or concerning, such party, including, but not limited to commercial, financial and technical information, customer or client lists, programs, procedures, data, documents, computer information and databases, business plans, trade secrets, budget forecasts, business arrangements, information regarding specific transactions, financial information and estimates, and long-term plans and goals, and any information relating to the Services.

1.5. "Effective Date" shall have the meaning set forth in the preamble.

1.6. "Expenses" shall have the meaning set forth in Paragraph 3.6.

1.7. "Force Majeure Event" shall have the meaning set forth in Paragraph 10.11.

1.8. "Intellectual Property" shall mean: (i) patents, patent applications and statutory invention registrations, (ii) trademarks, service marks, domain names, trade dress, logos and other source identifiers, including registrations and applications for registration thereof, (iii) copyrights, including registrations and applications for registration thereof, (iv) Software, and (v) Confidential Information.

1.9. "Line Item" shall mean an Approved Line Item or an Unapproved Line Item.

1.10. "Location" shall mean a location at which Customer conducts its business or seeks to utilize the Services.

1.11. "Manufacturer" shall mean a manufacturer or distributor of Products.

1.12. "Network Member" shall mean a person or entity contracted by GlobalServe to fill Orders, including, where applicable, to order Line Items from Manufacturers and to deliver Line Items to Customer.

1.13. "Order" shall mean any order of Line Items placed by Customer using the Services.

1.14. "Order Fees" shall have the meaning set forth in Paragraph 3.2.

1.15. "Order Number" shall mean the number assigned to an Order by GlobalServe for the purpose of identifying the Order.

1.16. "Product" shall mean a product identified by a single part number.

1.17. "Report" shall mean a summary of Orders and related information generated by GlobalServe pursuant to the guidelines set forth at Exhibit A.

1.18. "Service Fees" shall have the meaning set forth in Paragraph 3.1.

1.19. "Service Levels" shall mean the standard expected period of time, as determined by GlobalServe, between GlobalServe's confirmation of a Line Item's availability and the delivery of such Line Item to Customer's specified delivery address.

1.20. "Services" shall mean the online provisioning services to be provided by GlobalServe to Customer under the terms of this Agreement.

1.21. "Software" shall mean (a) computer software, including, without limitation, source code, object code, operating systems, applications programs, file and utility

programs, whether run locally or remotely via a network, including the Internet, or an intranet or extranet; (b) supporting documentation for such computer software; (c) the tangible media upon which such computer software and/or documentation have been recorded or stored, including, without limitation, hard copy, tapes, disks and CDs; and (d) any back-ups, modifications, upgrades, updates, additions, expansions, new versions, new releases or other changes to such computer software and/or documentation.

1.22. "Standard" shall mean a standard package of Line Items used by Customer in connection with its business.

1.23. "Taxes" shall have the meaning set forth in Paragraph 3.7.

1.24. "Term" shall have the meaning set forth in Paragraph 9.1.

1.25. "Unapproved Line Item" shall mean a Product for which Customer has not entered into a pricing arrangement with the Manufacturer of such Product.

1.26. "Website" shall mean the Internet site on the World Wide Web owned, developed and maintained by GlobalServe and accessible by Customer in connection with the Services.

## SECTION 2 SERVICES

2.1. Provision of Catalog Information. As soon as practicable after the Effective Date, Customer shall provide GlobalServe with (i) a list of Manufacturers with whom Customer has entered into a pricing agreement covering Line Items, (ii) a list of all Approved Line Items Customer desires to be included in the Catalog, (iii) a list of all Unapproved Line Items Customer desires to be included in the Catalog, and (iv) a list of all Standards Customer desires to be included in the Catalog. Customer shall inform all Manufacturers of Approved Line Items that GlobalServe shall be performing procurement for Customer and that all such procurement shall be under the pricing arrangement with such Manufacturer. During the Term, Customer shall promptly notify GlobalServe of any changes in (i) any Standards, (ii) its relationship with any Manufacturer, and (iii) any changes in Approved and Unapproved Line Items Customer desires to be covered by this Agreement.

2.2. Catalog Development. Upon receiving from Customer a Standard or a list of Approved Line Items or Unapproved Line Items for inclusion in the Catalog, GlobalServe shall advise Customer as soon as practicable as to whether such Standard or Line Items shall be available by means of the Services, and the Locations of such availability. In the event that GlobalServe determines that a Standard or particular Line Items shall be available by means of the Services, GlobalServe shall develop a Catalog for Customer pursuant to such Standard and Line Items, and shall make such Catalog accessible to Customer on the Website. As part of each Standard, Customer shall provide to GlobalServe, and GlobalServe shall include in the Catalog a list of all Line Items in such Standard, and a list of all Locations at which such Standard is to be available. GlobalServe shall provide

Customer with a checklist and workbook to facilitate the collection of information for the Catalog. In the event that a Line Item is not available at a Location, upon the request of Customer, GlobalServe shall use commercially reasonable efforts to make such Line Item available at such Location.

2.3. Catalog Maintenance. GlobalServe shall, on a regular basis, contact Manufacturers of Approved Line Items and Unapproved Line Items in order to maintain and update the price and availability information in the Catalog. Upon receiving from Customer changes in the Standards or changes in its relationship with any Manufacturers, GlobalServe shall, as promptly as practicable, revise the Catalog to reflect such changes. GlobalServe shall have no liability to Customer as a result of information in the Catalog if such information accurately reflects information received by GlobalServe from a Manufacturer, or as a result of the timeliness with which changes are made by GlobalServe if such changes are made within three (3) business days of GlobalServe receiving information on such changes. In the event that a Line Item is discontinued by a Manufacturer, GlobalServe shall notify Customer thereof, and the parties shall discuss in good faith including in the Catalog a replacement of such discontinued Line Item.

2.4. Customer Responsibilities. During the Term, Customer shall, upon the reasonable request of GlobalServe, provide GlobalServe with an estimate of the total number of Orders Customer expects to execute in the following calendar year. As promptly as practicable after the Effective Date, or upon the addition of a new Location at which Services are to be provided, Customer shall provide to each Location or such new Location: (i) an announcement regarding Customer's relationship with GlobalServe under this Agreement; and (ii) instructions and training for access to and use of the Catalog and Website. All instructions and training shall include information regarding the Service Levels for each Location and limitations on credit for such Location.

2.5. Credit. As soon as practicable after the Effective Date, Customer shall provide GlobalServe with a completed application for credit and a credit assurance statement, in a form to be provided by GlobalServe, indicating the level of credit that Customer will guarantee for each Location. GlobalServe shall use reasonable commercial efforts to establish lines of credit for Customer for each Location. Customer agrees to be bound by all local laws, regulations, and other guidelines applicable to the establishment of credit for each Location, and to provide GlobalServe with all necessary assistance, information or guarantees related thereto. Customer acknowledges that GlobalServe shall not be liable to Customer for the rejection of any application for credit, and that GlobalServe shall be entitled to payment from Customer for any portion of the Services performed by GlobalServe, regardless of any such rejection.

2.6. Catalog Website. Subject to the terms and conditions of this Agreement and to the payment of the Service Fees, GlobalServe hereby grants Customer the right to access and use the Services by means of a web browser at the Website, solely for Customer's internal purposes. The Website shall permit Customer to (i) review the Catalog; (ii) place Orders conforming with the Catalog and meeting criteria established by GlobalServe ; (iii) track the status of Orders; and (iv) review Reports. GlobalServe shall provide Customer with written instructions for accessing and using the Website.

2.7. Security. GlobalServe may, in its sole discretion, implement reasonable security measures on the Website, including (i) limiting Customer's use of the Website to a prescribed number of users, (ii) requiring Customer to provide GlobalServe with a list of authorized users, and (iii) including within the Website access and password protection to limit access only to authorized users. In the event of any violation of the security measures established by GlobalServe, including use of the Website by any unauthorized person, GlobalServe shall have the right to immediately terminate access to the Website by Customer. GlobalServe shall have the right to rely upon any information received at the Website from any person using a password assigned to Customer, and will incur no liability for such reliance. Customer shall be responsible for securing its passwords, and shall be responsible for any Orders placed using such passwords that are filled by GlobalServe in good faith. Customer shall notify GlobalServe of any changes to its list of persons authorized to access the Website.

2.8. Product Availability. GlobalServe shall use reasonable commercial efforts to update the availability of Line Items at the various Locations as such information is received by GlobalServe from Manufacturers and Network Members. Customer acknowledges that GlobalServe is reliant upon information received from third parties in determining the availability of Line Items, and does not guarantee delivery pursuant to this availability information.

2.9. Order Placement. For each Order, Customer shall complete all information in GlobalServe's order entry screens on the Website. GlobalServe reserves the right to reject Orders with incomplete information or to request additional information before processing Orders. All Orders effected on the Website are final and shall be binding on Customer.

2.10. Order Fulfillment. For each Order, GlobalServe shall (i) acknowledge receipt and acceptance of such Order; (ii) place such Order with a Network Member for fulfillment and delivery to Customer; (iii) if requested at the time of placement of such Order, use commercially reasonable efforts to provide Customer with confirmation of the availability of the Line Items ordered and the expected date of delivery to Customer; (iv) provide Customer with updates from time-to-time regarding the status of such Order; (v) provide Customer with a confirmed delivery date when available; and (vi) confirm delivery with Customer and provide Customer with an invoice .

### SECTION 3 PAYMENT TERMS

3.1. Service Fees. Customer shall pay GlobalServe for the Services pursuant to the schedule of fees set forth in Exhibit B (the "Service Fees"). With respect to Service Fees based on the number of transactions conducted by Customer annually, the parties shall meet on a quarterly basis to adjust such fees based on Customer's order activity in the prior calendar quarter. GlobalServe shall invoice Customer on or after the first day of each calendar month for all Service Fees, Expenses and Taxes incurred during the previous calendar month. Each such invoice shall contain an itemized statement of all Service Fees,

Expenses and Taxes then due. Customer shall pay all amounts due on each invoice within thirty (30) days of the receipt of such invoice. In no event shall Customer be obligated to pay any amount due on any invoice that it is not obligated to pay under the terms of this Agreement. GlobalServe shall have the right to reasonably increase or decrease the amount of any Service Fees due and payable for Services in the event of any changes in the specifications or requirements for such Services.

3.2. Order Fees. In addition to Service Fees, Customer shall be responsible for payment of the cost of Line Items purchased pursuant to Orders ("Order Fees"), which Line Item costs shall be invoiced to Customer or its designated Location by GlobalServe or a Network Member. Customer shall pay all amounts due on each such invoice within thirty (30) days of the receipt of such invoice. GlobalServe shall have the right to establish "Standard Terms and Conditions" for each Network Member setting forth the terms and conditions associated with fulfillment of Orders by such Network Member. GlobalServe shall use commercially reasonable efforts to communicate such terms and conditions to Customer. Customer hereby agrees to be bound by such terms and conditions in connection with any Order fulfilled by such Network Member.

3.3. Late Charges. Customer shall pay interest at one and one-half percent (1.5%) per month, or the highest interest rate permissible by law, on any amount invoiced by GlobalServe or a Network Member that is not paid within thirty (30) days of Customer's receipt thereof or that is not otherwise in good-faith dispute. Customer shall indemnify GlobalServe for all reasonable collection expenses, including attorneys' fees and court costs, incurred by GlobalServe for delinquent amounts. Customer shall promptly notify GlobalServe of any disputed charges on any invoice. The parties shall endeavor to resolve bona-fide invoice disputes within 30 days of receipt of notice of such dispute.

3.4. Expenses. Customer shall be responsible for payment of all reasonable out-of-pocket costs and expenses incurred in the course of GlobalServe's performance of the Services ("Expenses"), including, but not limited to, shipping, courier and other related delivery costs.

3.5. Taxes. Customer shall be responsible to pay and/or reimburse GlobalServe for all VAT, federal, state, local, excise, sales, use and other taxes and levies ("Taxes") imposed by any governmental authority in connection with performing the Services, excluding those taxes based on GlobalServe's payroll and/or net income.

3.6. Excluded Services. Except as expressly provided herein, GlobalServe shall not be required to provide any services to Customer, including, but not limited to, the services set forth on Exhibit C hereto. In the event that Customer desires GlobalServe to perform any such services, GlobalServe may, in its discretion, perform such services at the then-current billing rates of GlobalServe, and subject to the parties reaching mutual agreement on the terms of performance of such services.

**SECTION 4**  
**INDEPENDENT CONTRACTOR**

4.1. Independent Contractor. The parties agree that GlobalServe shall be acting as an independent contractor in performing the Services and shall not be considered or deemed to be an agent, employee, joint venturer or partner of Customer. GlobalServe shall at all times maintain complete control over its personnel and operations. Neither party shall have, or shall represent that it has, any power, right or authority to bind the other party to any obligation or liability, or to assume or create any obligation or liability on behalf of the other party.

4.2. GlobalServe Obligations and Agents. GlobalServe shall perform the Services in a professional and workmanlike manner using fully trained and qualified individuals and contractors capable of performing the Services in accordance with industry standards and practices reasonably applicable to the performance of such Services. Customer acknowledges that GlobalServe shall be using consultants, agents and/or subcontractors as Network Members to meet its obligations under this Agreement, and that GlobalServe shall have the right to select Network Members in its sole discretion without the prior consent of Customer. Notwithstanding anything to the contrary herein, GlobalServe will not be liable for any default or delay in the performance of its obligations under this Agreement if and to the extent such default or delay is caused, directly or indirectly, by the non-performance of a Network Member of its obligations under an agreement with GlobalServe, provided that, GlobalServe will be not be liable for any default or delay in its performance only for so long as such non-performance prevails and further provided that GlobalServe shall continue to use commercially reasonable efforts to recommence performance of its obligations hereunder as soon as practicable.

**SECTION 5**  
**CONFIDENTIALITY**

5.1. Confidentiality. Each party shall maintain in confidence all Confidential Information of the other party, and shall not disclose such Confidential Information to any third party except to those of its employees, consultants, agents and/or subcontractors as are necessary in connection with such party's activities as contemplated by this Agreement. In maintaining the confidentiality of Confidential Information of the other party, each party shall exercise the same degree of care that it exercises with its own confidential information, and in no event less than a reasonable degree of care. Each party shall ensure that each of its employees, consultants, agents and/or subcontractors holds in confidence and makes no use of the Confidential Information of the other party for any purpose other than those permitted under this Agreement or otherwise required by law.

5.2. Exceptions. The obligation of confidentiality contained in this Agreement shall not apply to the extent that (i) either party (the "Receiving Party") is required to disclose information by order or regulation of a governmental agency or a court of competent jurisdiction; provided, however, that the Receiving Party shall not make any such disclosure without first notifying the other party and allowing the other party a reasonable

opportunity to seek injunctive relief from (or a protective order with respect to) the obligation to make such disclosure, or (ii) the Receiving Party can demonstrate that (a) the disclosed information was at the time of such disclosure to the Receiving Party already in (or thereafter entered) the public domain other than as a result of actions of the Receiving Party, its directors, officers, employees or agents in violation hereof; (b) the disclosed information was rightfully known to the Receiving Party prior to the date of disclosure to the Receiving Party; or (c) the disclosed information was received by the Receiving Party on an unrestricted basis from a source unrelated to any party to this Agreement and not under a duty of confidentiality to the other party.

5.3. Unauthorized Disclosure. Each party acknowledges and confirms that the Confidential Information of the other party constitutes proprietary information and trade secrets valuable to the other party, and that the unauthorized use, loss or outside disclosure of such Confidential Information shall cause irreparable injury to the other party. Each party shall notify the other party immediately upon discovery of any unauthorized use or disclosure of Confidential Information, and will cooperate with the other party in every reasonable way to help regain possession of such Confidential Information and to prevent its further unauthorized use. Each party acknowledges that monetary damages may not be a sufficient remedy for unauthorized disclosure of Confidential Information of the other party and that the other party shall be entitled, without waiving other rights or remedies, to such injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction. Each party shall be entitled to recover reasonable attorney's fees for any action arising out of or relating to a disclosure of Confidential Information of such party by the other party.

## SECTION 6 INTELLECTUAL PROPERTY

6.1. Ownership. GlobalServe is and shall remain the exclusive owner of all Intellectual Property in the Website and all Software, documentation and other materials used, developed or created by or for GlobalServe in connection with performing the Services. Nothing herein shall be construed as granting Customer any rights in any of the foregoing, other than the right to access and use the Website in connection with the Services, as described in Section 2 hereof.

6.2. Publicity. Neither party shall, without the other party's prior written consent, use the name, service marks or trademarks of the other party or any of its Affiliates; provided, however, that (a) each party may use the other as a reference and indicate to third parties that such party provides or receives, as applicable, Services hereunder; (ii) the parties may disclose the existence and general nature of this Agreement; and (iii) GlobalServe, in connection with its marketing and sales activities, may disclose to prospective clients statistical and other general information of Customer if such information is integrated with that of other GlobalServe clients and it not identifiable in any way with Customer.

## SECTION 7 NON-SOLICITATION

During the term of this Agreement and for a period of one (1) year thereafter (the "Restricted Period"), neither party shall (i) offer or aid others to offer employment to, or (ii) enter into any business relationship with, either directly or indirectly, any employees, agents or consultants of the other party or interfere or attempt to interfere with any employees, agents or consultants of the other party. Nothing in this Paragraph shall preclude either party from giving verbal or written opinions or recommendations regarding the work of such employees, agents and consultants if such opinion is solicited, without any inducement on the part of the party, by either a subsequent employer or by any such employee, agent or consultant, or shall preclude a party from engaging an employee, agent or consultant with which such party has a pre-existing relationship.

## SECTION 8 REPRESENTATIONS AND WARRANTIES

8.1. Mutual Representations. Each party represents and warrants to the other party as follows:

- (a) The execution, delivery and performance of this Agreement by such party have been duly authorized by all necessary actions on the part of such party.
- (b) This Agreement has been duly executed and delivered by such party and, assuming due authorization, execution and delivery by the other party, constitutes a legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms.
- (c) Such party's execution, delivery and performance of this Agreement do not (i) violate, conflict with or result in the breach of any provision of the charter or by-laws (or similar organizational documents) of the party, (ii) conflict with or violate any law or governmental order applicable to the party or any of its respective assets, properties or businesses, or (iii) conflict with, result in any breach of, constitute a default (or event which with the giving of notice or lapse of time, or both, would become a default) under, require any consent under, or give to others any rights of termination, amendment, acceleration, suspension, revocation or cancellation of any note, bond, mortgage or indenture, contract, agreement, lease, sublease, license, permit, franchise or other instrument or arrangement to which it is a party.

8.2 Disclaimer. ALL LINE ITEMS PROVIDED HEREUNDER, USE OF THE WEBSITE, AND ALL GLOBALSERVE SOFTWARE PROVIDED TO OR MADE ACCESSIBLE TO CUSTOMER IN CONNECTION WITH THIS AGREEMENT, ARE PROVIDED ON AN AS-IS BASIS. EXCEPT AS EXPRESSLY STATED HEREIN,

GLOBALSERVE DOES NOT MAKE ANY WARRANTIES, EXPRESS OR IMPLIED, TO CUSTOMER OR ANY THIRD PARTY WITH RESPECT TO LINE ITEMS ORDERED HEREUNDER, OPERATION OF THE WEBSITE, OR SOFTWARE PROVIDED TO OR MADE ACCESSIBLE TO CUSTOMER HEREUNDER, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE. IN NO EVENT SHALL GLOBALSERVE BE LIABLE FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, MULTIPLE, PUNITIVE OR SPECIAL DAMAGES OF ANY KIND, ARISING OUT OF OR RELATED TO THIS AGREEMENT.

8.3. Indemnification. Subject to the terms and conditions set forth in this Agreement, each party will indemnify and hold harmless the other party and its directors, officers, employees, agents, Affiliates and assigns against any and all damages, losses, claims, liabilities, obligations, commitments, costs or expenses, including reasonable attorneys' fees and costs, incurred by such other party arising out of or related to any breach by such party of its representations, warranties or covenants under this Agreement.

8.4. Limitation on Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, EXCEPT WITH RESPECT TO INSTANCES OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, IN NO EVENT SHALL THE LIABILITY OF GLOBALSERVE FOR DAMAGES HEREUNDER, WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, EXCEED THE TOTAL SERVICE FEES PAID TO GLOBALSERVE IN THE THREE (3) MONTH PERIOD PRECEDING THE ACCRUAL OF SUCH DAMAGES.

8.5. Other Limitations on Liability. Notwithstanding any other provision herein to the contrary, and in addition to any other limitation or release of liability set forth herein, the parties agree as follows:

- (a) GlobalServe, its employees and Servants may rely upon instructions and information provided by Customer or any person designated by Customer and will incur no liability for such reliance.
- (b) GlobalServe shall not be liable for any default or delay in performance of its obligations hereunder to the extent the same is caused, directly or indirectly, by the failure of Customer to comply with any of Customer's obligations hereunder or any unavailability or work absence of the appropriate Customer personnel or any busy signal received, or voice message left by GlobalServe when attempting to contact the appropriate Customer personnel at their designated phone number(s).
- (c) GlobalServe shall have no liability whatsoever to Customer for any error, act or omission in connection with GlobalServe's rendering of Services unless any such error, act or omission results from willful misconduct or gross negligence.

(d) Neither party may assert any cause of action against the other party under or in respect of this Agreement that arose more than two (2) years prior to the filing of the suit alleging such cause of action.

## SECTION 9 TERM AND TERMINATION

9.1. Term. This Agreement shall become effective as of the Effective Date and shall remain in force until terminated in accordance with the terms of this Section 9 (the "Term").

9.2. At-Will Termination. Either party may terminate this Agreement at any time upon thirty (30) days prior written notice to the other party.

9.3. Breach. Either party may terminate this Agreement at any time in the event that the other party is in default or breach of any material provision of this Agreement, and such default or breach continues unremedied for a period of sixty (60) days after written notice thereof. In the event that Customer fails to pay when due any amount due by Customer to GlobalServe pursuant to this Agreement, and GlobalServe has delivered notice of one or more prior defaults for failure to pay amounts when due within the twelve (12) months immediately preceding the time of such failure to pay, GlobalServe may terminate this Agreement effective immediately by notice to Customer without opportunity to cure.

9.4. Bankruptcy. Either party may, at its option, immediately terminate this Agreement if the other party becomes insolvent or unable to pay its debts as they mature, or makes an assignment for the benefit of its creditors; seeks relief or if proceedings are commenced against the other party or on its behalf under any bankruptcy, insolvency or debtors' relief law and such proceedings have not been vacated or set aside within sixty (60) days from the date of commencement thereof.

9.5. Following Termination. Upon termination of this Agreement, GlobalServe and its Network Members shall: (a) provide to Customer final invoices for all amounts due and payable hereunder; and (b) Customer shall pay to GlobalServe and its Network Members all unpaid Service Fees, Order Fees, Expenses and Taxes incurred by GlobalServe.

9.6. Survival. The duties and obligations of the parties under Sections 3.1, 3.2, 3.3, 3.4, 5, 6, 7, 8, 9 and 10 of this Agreement shall survive termination of this Agreement.

**SECTION 10**  
**MISCELLANEOUS**

10.1. **Notices.** Except for routine operational correspondence, all notices, requests, claims, demands and other communications hereunder shall be in writing and shall be given or made (and shall be deemed to have been duly given or made upon receipt) by delivery in person, by overnight courier service (with signature required), by facsimile, or by registered or certified mail (postage prepaid, return receipt requested) to the respective parties at the following addresses:

(a) if to GlobalServe:

GlobalServe Computer Services Limited  
Carmelite  
50 Victoria Embankment  
Blackfriars  
London EC4Y OLS  
England  
Phone: 01 784 410017  
Fax: 01 784 410335

with a copy to:

Secretary  
GlobalServe Computer Services Limited  
70 West Red Oak Lane  
Fourth Floor  
White Plains, New York 10604-3602  
U.S.A.  
Phone: (914) 697-7522  
Fax: (914) 697-7525

(b) if to Customer:

Attn: \_\_\_\_\_

10.2. **Entire Agreement.** This Agreement, together with the Exhibits attached hereto, constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements and understandings, whether written or oral, between the parties with respect to the subject matter hereof.

10.3. **Headings.** The descriptive headings contained in this Agreement are for convenience of reference only and shall not affect in any way the meaning or interpretation of the Agreement.

10.4. Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any law or public policy, all other terms and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party.

10.5. Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Neither party may assign this Agreement without the prior written consent of the other party, provided that (i) either party may assign its rights and obligations under this Agreement without the approval of the other party to an Affiliate of such party, and (ii) GlobalServe may assign this Agreement to a third party in connection with the sale of all or substantially all of the business or assets of GlobalServe without the prior written consent of Customer. No assignment by either party permitted hereunder shall relieve the applicable party of its then-existing obligations under this Agreement. Any assignment by either party in accordance with the terms of this Agreement shall be pursuant to a written assignment agreement in which the assignee expressly assumes the assigning party's rights and obligations hereunder.

10.6. No Third-party Beneficiaries. Nothing in this Agreement, either express or implied, is intended to or shall confer upon any third party any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement. [To Be Discussed]

10.7. Amendment. This Agreement may not be amended or modified except by an instrument in writing signed by authorized representatives of Customer and GlobalServe.

10.8. Governing Law and Venue. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York. The parties unconditionally and irrevocably agree and consent to the exclusive jurisdiction of the courts located in the State of New York and waive any objection with respect thereto, for the purpose of any action, suit or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby and further agree not to commence any such action, suit or proceeding except in any such court.

10.9. Counterparts. This Agreement may be executed in one or more counterparts, and by the different parties in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same Agreement.

10.10. No Waiver. The failure of either party to enforce at any time for any period the provisions of or any rights deriving from this Agreement shall not be construed to be a waiver of such provisions or rights or the right of such party thereafter to enforce such provisions.

10.11. Force Majeure. No party shall be responsible for failure or delay in performance hereunder by reason of fire, flood, riot, strikes, labor disputes, freight embargoes

or transportation delays, acts of God or of the public enemy, war or civil disturbances, any future laws, rules, regulations or acts of any government (including any orders, rules or regulations issued by any official or agency or such government) affecting a party that would delay or prohibit performance hereunder, or any cause beyond the reasonable control of such party (a "Force Majeure Event"). Upon the occurrence of a Force Majeure Event, the party whose performance is so affected shall promptly give notice to the other party of the occurrence or circumstance upon which it intends to rely to excuse its performance. During the duration of the Force Majeure Event, the party so affected shall use its reasonable commercial efforts to avoid or remove such Force Majeure Event and shall take reasonable steps to resume its performance under this Agreement with the least possible delay.

IN WITNESS WHEREOF, Customer and GlobalServe have caused this Agreement to be executed as of the date first written above by their respective duly authorized officers.

GlobalServe Computer Services Ltd.

Customer

By:

Name:  
Title:

By:

Name:  
Title:

Exhibit A

REPORTS

Reports to Customer shall include the following information:

[TO BE ADDED]

Exhibit B

FEES

<u>FEES</u>		
Initial Set-up Fee	\$12,500	Includes four Category 1 countries and up to 50 Line Items
Additional Category 1 country	\$1,250	Category 1 Countries: Argentina, Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Ireland, Italy, Japan, Mexico, Netherlands, Spain, Sweden, UK, USA, Venezuela
Additional Category 2 country	\$2,400	Category 2 Countries: Brazil, Chile, China, Czech Republic, Greece, Hong Kong, Hungary, India, Israel, New Zealand, Norway, Poland, Portugal, Russia, Singapore, South Africa, Switzerland, Turkey
Additional Category 3 country	\$3,500	All other countries
Additional 10 Line Items	\$500	

Volume of Transactions Per Year <sup>1</sup>	0-100	101-200	201-300	301-400	401-500
Order Amount <sup>2</sup> < \$500	\$50	\$40	\$30	\$20	
Order Amount > \$500	\$125	\$95	\$85	\$75	

1 Volume of transaction is determined on a per country basis. In the event that a single order covers multiple countries, the number of transactions will be determined by the total number of countries involved in the order. For example, a single order for equipment in five countries will be considered five transactions for purposes of determining transaction fees.

2 Transaction fees are determined based on the amount of an order in each country. In the event that a single order covers multiple countries, transactions fees will be determined by calculating the amount of the order in each country, with the transactions fee being determined separately for each country. For example, for a customer processing 0-300 orders per year, if an order is received for \$450 worth of goods in each of five countries (\$2250 total), the total transactions fee shall be  $\$50 \times 5 = \$250$ .

Order Amount > \$5,000	\$150	\$125	\$110	\$100
Order Amount > \$10,000	\$170	\$155	\$140	\$125
Order Amount > \$50,000	\$375	\$350	\$325	\$300
Order Amount > \$100,000	\$550	\$500	\$450	\$400
For customers processing less than 200 transactions per year, a monthly management fee will be applied	\$1,000			

S&S Draft - 5/24/00

DATED: May 1, 2000

- (1) BP INTERNATIONAL LIMITED
- (2) GLOBALSERVE COMPUTER SERVICES LIMITED

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**GLOBAL PRODUCT AND SERVICE SUPPLY AGREEMENT**

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**DATED:** May 1, 2000

**PARTIES:**

- (1) BP INTERNATIONAL LIMITED whose registered office is at Britannic House 1 Finsbury Circus, London EC2M 7BA ("BP"); and
- (2) GLOBALSERVE COMPUTER SERVICES LIMITED whose registered office is at Carmelite, 50 Victoria Embankment, Blackfriars, London EC4Y OLS ("GlobalServe")

**WHEREAS**

GlobalServe has agreed to procure the supply by Fulfillment Service Agents of certain computer equipment and associated peripherals to BP and its affiliates throughout the world and to provide the management and co-ordination of such supply in pursuance of orders issued from time to time in accordance with this Agreement.

**IT IS HEREBY AGREED** as follows:

**1. DEFINITIONS**

- 1.1 In this Agreement, the following expressions have the following meanings:

"Agreement" means this agreement together with the Schedules hereto and any documents referred to therein;

"BP" means BP Amoco p.l.c.;

"BP Amoco Affiliates" means: (a) BP Amoco; (b) any legal entity directly or indirectly controlled by, controlling, or under common control with that party where control means owning 30% or more of the stock, equity or property of such legal entity or having the right to appoint 30% or more of the members or owner representatives of such entity; (c) a firm, undertaking, joint venture, association, partnership, or other form of business organisation in or through which BP Amoco directly or indirectly carries on business and/or in which it directly or indirectly has an ownership interest and for which it is responsible for provision of IT services; and (d) any third party which provides outsourcing services to any of the foregoing to the extent of such outsourcing.

"BP Catalogue" means the catalogue (in any medium) of certain products available for supply in pursuance of this Agreement as revised from time to time by agreement between BP and GlobalServe in accordance with this Agreement;

**"Common Operating Environment"** or **"COE"** means the set of hardware and associated operating and application software defined by BP from time to time as a standard for use by BP Amoco Affiliates;

**"Confidential Information"** of a party means any and all confidential or proprietary information of, or concerning, such party, including, but not limited to commercial, financial and technical information, customer or client lists, programs, procedures, data, documents, computer information and databases, business plans, trade secrets, budget forecasts, business arrangements, information regarding specific transactions, financial information and estimates, and long-term plans and goals. **"Confidential Information"** of BP shall include the BP Amoco Catalogue.

**"day"** means any period of 24 hours commencing at 00.01 in a relevant time zone;

**"Designated Delivery Point"** means the place of delivery specified in an Order;

**"desktop"** means a non-portable personal computer generally located on or beneath a desk;

**"Effective Date"** means May 1, 2000;

**"Fulfillment Service Agent(s)"** means those entities contracted in pursuance of Orders to deliver Products and/or to supply Services to Purchasers under this Agreement.

**"Image Load"** means BP's latest standard COE software image as provided by BP to GlobalServe from time-to-time;

**"Intellectual Property"** means: (i) patents, patent applications and statutory invention registrations, (ii) trademarks, service marks, domain names, trade dress, logos and other source identifiers, including registrations and applications for registration thereof, (iii) copyrights, including registrations and applications for registration thereof, (iv) Software, and (v) Confidential Information.

**"laptop"** means a portable personal computer;

**"lean pc"** means a simple, low cost personal computer, similar to but smaller than a desktop;

**"Manufacturer"** means an OEM.

**"OEM"** or **"Original Equipment Manufacturer"** means a manufacturer of Products.

**"OEM Price"** means the price payable to the OEM for a Product and/or Service;

**"Operations Handbook"** means a set of practices and procedures to be complied with by all Purchasers and Fulfillment Service Agents pursuant to Clause 3.8

**"Operating Software"** means Microsoft Windows 98, Windows 2000 Professional, Windows NT or any other operating software specified by BP in an Order;

**"Order"** means an order for the supply of any Products and/or any Services placed by a Purchaser on a Fulfillment Service Agent through GlobalServe in accordance with this Agreement;

**"PDA"** means personal digital assistant;

**"Products"** means laptops, desktops, workstations, lean PCs, thin clients and PDAs together with associated peripherals including monitors, communications devices, storage devices, virtual teamworking equipment as listed in the BP Catalogue and such other equipment mutually agreed by BP and GlobalServe;

**"Purchaser"** means BP or any BP Amoco Affiliate or any employees thereof;

**"Quarter"** means the period from the Effective Date until 30th June 2000 and any consecutive period of three calendar months thereafter commencing on 1st July 2000;

**"Reseller Margin"** means the percentage of the OEM Price specified in Schedule 2;

**"Services"** means Image Load, configuration and/or installation services, particulars of which are set out in Schedule 1;

**"SLA"** means the service levels under this Agreement mutually agreed by the parties from time-to-time.

**"Software"** means (a) computer software, including, without limitation, source code, object code, operating systems, applications programs, file and utility programs, whether run locally or remotely via a network, including the Internet, or an intranet or extranet; (b) supporting documentation for such computer software; (c) the tangible media upon which such computer software and/or documentation have been recorded or stored, including, without limitation, hard copy, tapes, disks and CDs; and (d) any back-ups, modifications, upgrades, updates, additions, expansions, new versions, new releases or other changes to such computer software and/or documentation;

**"Specification(s)"** means the OEM's standard specification(s) of a Product or other specification agreed between BP and the OEM;

**"thin client"** means a simplified personal computer possibly lacking its own hard disk storage, which relies on links to a server to deliver full functionality;

**"Website"** means the Internet site on the World Wide Web owned, developed and maintained by GlobalServe and accessible by Purchasers;

**"Working Day"** means any day which is not a Saturday or a Sunday.

1.2 In the event of a conflict between any of the terms of this Agreement, including its Schedules, the conflict will be resolved according to the following order of priority:

- the Clauses of this Agreement;
- the Schedules of this Agreement.

## 2. DURATION

This Agreement shall be effective as of the Effective Date and shall continue in force for an initial period of three (3) years from the Effective Date and shall continue thereafter unless or until terminated by either party giving to the other not less than three (3) months' written notice expiring on the last day of the said initial period or at any time thereafter, but shall be subject to earlier termination as hereinafter provided.

## 3. SALE OF PRODUCTS AND SUPPLY OF SERVICES

3.1. During the continuance of this Agreement, GlobalServe will procure that Fulfillment Service Agents (i) sell and deliver Products, and/or (ii) supply Services, to Purchasers in pursuance of Orders, free from encumbrances and upon the terms and conditions of this Agreement:

3.2. GlobalServe will procure:

3.2.1 that all Products supplied by Fulfillment Service Agents conform with the relevant Specifications;

3.2.2 that the following of the Products specific to the country of the Designated Delivery Point will be supplied in pursuance of Orders unless otherwise specified in the relevant Order:

- power leads and adaptors;
- modem cables and connectors;
- keyboards;
- manuals and other documentation;
- any other country or language specific item

3.2.3 that all Products will be available for supply and delivery to Purchasers anywhere in the world;

3.2.4 that Products comprising PC systems will include the Operating Software licence standard form specified in the Order (or if not specified with Order, specified as standard in the BP catalogue), a certificate of which will be delivered with each of the relevant Products;

3.2.5 that Image Load and configuration will be provided to Purchasers as specified in the Orders.

- 3.2.6 that Purchasers will have the right to specify that, for Products from IBM, the Services referred to in Clause 3.2.5 will be carried out by the OEM;
  - 3.2.7 that all sales of Products and supply of Services pursuant to Orders shall be subject to the terms and conditions of this Agreement where applicable, and any term or condition specified in an Order or its acknowledgement or elsewhere which is inconsistent therewith shall have no effect unless expressly agreed in writing between the relevant Purchaser and the Fulfillment Service Agent or BP and GlobalServe; and
  - 3.2.8 that all Fulfillment Service Agents shall agree to be bound by the terms and conditions of this Agreement in connection with the performance of any contract arising hereunder as a result of an Order issued pursuant to this Agreement, Provided That, if any Fulfillment Service Agreement shall be in breach of any such contract GlobalServe shall be liable to the relevant Purchaser for all costs, claims, expenses and liabilities arising out of any such breach, it being intended that GlobalServe shall, for the benefit of Purchasers, ultimately be responsible for the performance of such contracts, Provided Further, That BP and/or the relevant Purchaser, with the co-operation of GlobalServe, shall have in good faith attempted to recover payment and/or compensation from the relevant Fulfillment Service Agent but so that such Purchaser shall not be bound to institute legal proceedings for such recovery.
- 3.4 If any Fulfillment Service Agent shall be in breach of any contract arising hereunder as a result of an Order issued pursuant to this Agreement, GlobalServe shall use its best efforts to ensure performance thereof by such Fulfillment Service Agent.
- 3.5 Nothing herein shall be construed as prohibiting or restricting BP or any of BP Amoco Affiliates from purchasing the Products and/or Services from any third party.
- 3.6 GlobalServe warrants that all Fulfillment Service Agents utilized by GlobalServe to deliver IBM Products under this Agreement are authorised to resell IBM Products.
- 3.7 BP and GlobalServe shall cooperate to develop and complete a mutually agreeable Operations Handbook within thirty (30) days of the execution date of this Agreement. BP shall procure that all Purchasers comply with the Operations Handbook in all respects. GlobalServe shall procure that all Fulfillment Service Agents comply with the Operations Handbook in all respects.
- 3.8 Upon establishment of the e-procurement system between BP and GlobalServe, BP shall use reasonable efforts to use such system, and to encourage Purchasers to use such system, in making Orders.

4. **ORDERS**
  - 4.1 All Orders by Purchasers will be sent to GlobalServe, which shall receive and acknowledge the same, and shall route each Order to a Fulfillment Service Agent.

Upon acceptance thereof by such Fulfillment Service Agent, communicated to GlobalServe, GlobalServe shall communicate such acceptance to the relevant Purchaser, at which time the contract for the delivery of the relevant Products shall be formed between the relevant Purchaser and the relevant Fulfillment Service Agent. GlobalServe warrants to BP for the benefit of Purchasers that it has the authority so to act.

- 4.2 Upon receipt of an Order complying with the terms of this Agreement, GlobalServe shall be obliged to accept such Order and to fill such Order, through a Fulfillment Service Agent, in accordance with the terms and conditions of this Agreement.

- 4.3 The parties will comply with and procure that respectively Fulfillment Service Agents and Purchasers comply with the provisions of Schedule 3 where applicable.

## 5. **SPECIFICATIONS, REJECTION**

- 5.1 All Products supplied by Fulfillment Service Agents to Purchasers pursuant to this Agreement will conform in all respects to the relevant Specifications, and Purchasers will be entitled to reject any Products that are not in accordance with the relevant Specifications.

- 5.2 All Products and/or Services delivered under this Agreement will comply with all relevant requirements of any statute, statutory rule or order or other instrument having force of law, which may be in force in the territory where and when the Products are delivered and/or the territory where the Services are performed as the case may be.

## 6. **DELIVERY**

- 6.1 The relevant Fulfillment Service Agent shall:

- 6.1.1 at its own risk and expense, be responsible to obtain any export licence and other official or other documents, and carry out where applicable all customs formalities necessary for the delivery of Products under this Agreement;

- 6.1.2 contract for the carriage of Products to the Designated Delivery Point;

- 6.1.3 deliver the Products to the relevant Purchaser at the Designated Delivery Point on the date or within the period agreed for delivery;

- 6.1.4 bear all risks of loss or damage to the Products until such time as they have been delivered in accordance with Clause 6.1.3;

- 6.1.5

- 6.2 Subject to Clause 6.3 below, if for any reason the Purchaser is not able to accept delivery of the Products on or after the contractual delivery date, GlobalServe or the Fulfillment Service Agreement will, at the cost and expense of Purchaser,

including storage and insurance costs, store the Products and safeguard them until delivery.

- 6.3 A Purchaser may not postpone delivery of any Products except by notice given at least five (5) days before the contractual delivery date thereof to a date not later than 30 days after the contractual date of delivery thereof. Provided That, the relevant Fulfillment Service Agent shall in any such case deliver the Products into storage under Clause 6.2 above and on completion of such delivery to storage in lieu of the Designated Delivery Point the relevant Fulfillment Service Agent shall have the right to invoice the relevant Purchaser for such Order as of the contractual delivery date for such Order, and Purchaser shall pay such invoice in accordance with this Agreement. All other terms and conditions of the Order shall continue to apply. Title to Products in storage shall pass to the Purchaser when the relevant Fulfillment Service Agent has received full payment for such Products.
- 6.4 Fulfillment Service Agents, shall not, and GlobalServe shall procure that Fulfillment Service Agents shall not, make part deliveries of Products specified in an Order unless previously agreed by the relevant Purchaser.
- 6.5 Risk of loss in the Products shall pass to the Purchaser when they are delivered to the Purchaser at the Designated Delivery Point and a delivery note has been signed by a duly authorised representative of the relevant Purchaser. Title in the Products shall pass to the Purchaser when the relevant Fulfillment Service Agent has received full payment for such Products. Such passing of title and risk of loss shall be without prejudice to any right of rejection arising under this Agreement.

## 7. SERVICES

- 7.1 GlobalServe shall ensure that Fulfillment Service Agents perform the Services as set out in the relevant Order on or before the date set out therein or within the period set out therein and that they are bound by the relevant provisions of this Agreement.

## 8. PERFORMANCE OF AGREEMENT

- 8.1 BP and GlobalServe will undertake, perform and comply with the provisions of Schedules 1 to 7 inclusive of this Agreement where applicable and the provisions thereof shall apply as between GlobalServe and BP where applicable. GlobalServe shall procure, and hereby warrants, that where applicable, the provisions of this Agreement including the said Schedules shall be complied with by Fulfillment Service Agents in the performance of contracts arising in pursuance of Orders. BP shall procure that where applicable the provisions of any Order issued by a Purchaser shall be subject to the conditions of this Agreement, including the said Schedules.
- 8.2 The parties acknowledge that all third party software, including MS-DOS, Microsoft Windows, Win95, Win98 and WinNT is provided subject to the third-party license agreement for such software. Purchasers will be bound by the third-party license

agreement in accordance with the terms thereof, unless such license is superseded by an agreement between the Purchaser and such third party vendor.

## 9. CHANGES

9.1.1 Subject to the consent of the relevant Fulfillment Service Agent, which consent shall not be unreasonably withheld or delayed, a Purchaser shall have the right to make changes to any Order issued hereunder, including but not limited to changes in the Products ordered, provided that, Purchaser may not change any Order within five (5) days of the delivery date thereof. Upon acceptance of a proposed change, if any such change would affect any price and/or delivery then GlobalServe, before proceeding, shall notify the Purchaser in writing of said price and/or delivery date change and receive the Purchaser's agreement thereto in writing before proceeding.

[Note: Limitations on the making of changes to be discussed]

9.2 No claims or charges shall be due and payable by any Purchaser for any increase in work, material, transportation, freight or packing and no substitution of material or changes in price and/or delivery date shall be permitted without first obtaining the prior written consent of the relevant Purchaser.

## 10. DELAYS IN DELIVERY

10.1 In the event of any known or anticipated delay in the execution of an Order (in accordance with the dates and time scales specified in the Order or otherwise in accordance with this Agreement), GlobalServe shall inform the relevant Purchaser immediately of the reason for such delay and when it or the relevant Fulfillment Service Agent as the case may be expects to proceed with its obligations.

10.2 If the delivery of any Product is in delay beyond any of the relevant periods referred to in Schedule 3, then without prejudice to its rights under Schedule 3 or any other provision of this Agreement, the relevant Purchaser will be entitled to cancel any such Order in whole or in part without liability.

## 11. FORECASTS

11.1 BP [shall] [may] provide to GlobalServe a rolling 60 and 30 day forecast of Orders for the Products which are specified in the BP Catalogue as provided in Schedule 1. Such forecasts shall be good-faith estimates of the total purchases of Products to be made by Purchasers, do not constitute commitments to purchase, and no Purchaser shall have any liability for failure to purchase Products in accordance with any forecast

[Note: language subject to further discussion ]

**12. PRICES AND PAYMENT**

12.1 The provisions of Schedule 2 shall apply to all contracts arising in pursuance of Orders issued by Purchasers hereunder. All payments shall be made by Purchasers direct to Fulfillment Service Agents in pursuance of invoices issued in accordance herewith.

**13. PRODUCT WARRANTIES**

13.1 The provisions of Schedule 1 shall apply to all contracts arising in pursuance of Orders issued by Purchasers hereunder with respect to the provision of the benefit of Manufacturers' warranties in relation to Products supplied under such Orders.

**14. INTELLECTUAL PROPERTY**

14.1 Fulfillment Service Agents shall, and GlobalServe shall procure that Fulfillment Service Agents shall, defend, indemnify and hold harmless Purchasers from and against any costs, claims, demands, expenses and liabilities arising out of any claim that the normal use or possession of Products supplied to Purchasers in pursuance of Orders infringes the Intellectual Property rights of any third party, provided that, the relevant Purchaser shall provide the relevant Fulfillment Service Agent and GlobalServe with prompt written notice thereof, and the relevant Fulfillment Service Agent shall have the right to control the defense and settlement of such claims. BP and the relevant Purchasers shall cooperate with and provide reasonable assistance to Fulfillment Service Agents (at their expense) in connection therewith. Without limiting the other provisions of this Clause, a Fulfillment Service Agent may, at its option and expense: (i) replace or modify the infringing Products with non-infringing products that are functionally equivalent; or (ii) obtain a license to continue use of the infringing Products. The indemnification under this Clause shall not apply to the extent that (i) the alleged infringement results from use of the Products in other than for their normal intended function, or (ii) the alleged infringement arises out of any modification or misuse of the Products, or use of the Products in combination with other products not provided under this Agreement.

14.2 GlobalServe is and shall remain the exclusive owner of all Intellectual Property in the Website and all Software, documentation and other materials used, developed or created by or for GlobalServe in connection therewith. Nothing herein shall be construed as granting Purchasers any rights in any of the foregoing, other than the right to access and use the Website in connection with the purchase of Products and/or Services in pursuance of this Agreement.

14.3 All rights in the content of the BP Catalogue shall be and remain in the ownership of BP and GlobalServe shall not and shall ensure that Fulfillment Service Agents shall not use the same for any purpose other than for the purposes of this Agreement.

14.4 Nothing herein shall be construed as the grant by any party to any other party of the right to use any name, trademark or service mark or any other intellectual property

right except as expressly stated herein or otherwise agreed between the relevant parties.

## 15. CONFIDENTIALITY

- 15.1 The following shall apply as between BP and GlobalServe and between any Purchaser and any Fulfillment Service Agent under a contract arising out of Orders issued hereunder.
- 15.2 Each party shall maintain in confidence all Confidential Information of the other party, and shall not disclose such Confidential Information to any third party except to those of its employees, consultants, agents and/or subcontractors as are necessary in connection with such party's activities as contemplated by this Agreement. In maintaining the confidentiality of Confidential Information of the other party, each party shall exercise the same degree of care that it exercises with its own confidential information, and in no event less than a reasonable degree of care. Each party shall ensure that each of its employees, consultants, agents and/or subcontractors holds in confidence and makes no use of the Confidential Information of the other party for any purpose other than those permitted under this Agreement or otherwise required by law.
- 15.3 The obligation of confidentiality contained in this Agreement shall not apply to the extent that (i) either party (the "Receiving Party") is required to disclose information by order or regulation of a governmental agency or a court of competent jurisdiction; provided, however, that the Receiving Party shall not make any such disclosure without first notifying the other party and allowing the other party a reasonable opportunity to seek injunctive relief from (or a protective order with respect to) the obligation to make such disclosure, or (ii) the Receiving Party can demonstrate that (a) the disclosed information was at the time of such disclosure to the Receiving Party already in (or thereafter entered) the public domain other than as a result of actions of the Receiving Party, its directors, officers, employees or agents in violation hereof; (b) the disclosed information was rightfully known to the Receiving Party prior to the date of disclosure to the Receiving Party; or (c) the disclosed information was received by the Receiving Party on an unrestricted basis from a source unrelated to any party to this Agreement and not under a duty of confidentiality to the other party.
- 15.4 Each party acknowledges and confirms that the Confidential Information of the other party constitutes proprietary information and trade secrets valuable to the other party, and that the unauthorised use, loss or outside disclosure of such Confidential Information shall cause irreparable injury to the other party. Each party shall notify the other party immediately upon discovery of any unauthorised use or disclosure of Confidential Information, and will cooperate with the other party in every reasonable way to help regain possession of such Confidential Information and to prevent its further unauthorised use. Each party acknowledges that monetary damages may not be a sufficient remedy for unauthorised disclosure of Confidential Information of the other party and that the other party shall be entitled, without waiving other rights or remedies, to such injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction. Each party shall be entitled to recover reasonable attorney's

fees for any action arising out of or relating to a disclosure of Confidential Information of such party by the other party.

## **16. FORCE MAJEURE**

16.1 Notwithstanding anything else contained in this Agreement, neither GlobalServe nor any of the Fulfillment Service Agents or Purchasers shall be liable for any delay in performing its obligations under this Agreement and/or any contract arising in pursuance of Orders as the case may be if such delay is caused by circumstances beyond its reasonable control (including without limitation any delay caused by any act or omission of the other party, or any failure to perform any act prohibited by any statute, law, rule or regulation by any relevant governmental entity), provided, however, that any delay by a sub-contractor or supplier of the party so delaying shall not relieve that party from liability for delay except where such delay is beyond the reasonable control of the sub-contractor or supplier concerned. Subject to the parties so delaying promptly notifying the other party in writing of the reasons for the delay (and the likely duration of the delay), the performance of such party's obligations shall be suspended during the period that the said circumstances persist and such party shall be granted an extension of time for performance equal to the period of delay. Save where such delay is caused by the act or omission of the other party (in which event the rights, liabilities and responsibilities of the parties shall be those conferred and imposed by the other terms of this Agreement and by law):

- 16.1.1 any costs arising from such delay shall be borne by the party incurring the same;
- 16.1.2 either party may, (in the case of any delay in performance of a contract arising in pursuance of an Order) if such delay continues for more than 30 days terminate the contract forthwith on giving notice in writing to the other in which event neither party thereto shall be liable to the other by reason of such termination.

## **17. DEFAULT - TERMINATION**

- 17.1 Either of BP and GlobalServe may terminate this Agreement upon delivery of written notice of termination to the other, if the other is in breach of any material obligation of this Agreement on its part to be performed and such breach continues unremedied for a period of sixty (60) days after written notice.
- 17.2 Either of BP and GlobalServe may at its option terminate this Agreement immediately upon delivery of written notice of termination to the other party upon the occurrence of any of the following circumstances:
  - 17.2.1 If a receiver, liquidator, trustee or similar administrator is appointed to take charge of all, or substantially all, of a party's assets; or
  - 17.2.2 If a party is adjudged, or becomes bankrupt or insolvent, or is unable to pay its debts as they become due, or makes an assignment for the benefit of creditors; or

- 17.2.3 If any judicial proceeding is commenced by or on behalf of a party pursuant to any bankruptcy, insolvency, or debtor relief law; or
- 17.2.4 If a party voluntarily or involuntarily undertakes to dissolve or wind-up its affairs;

17.3 In the event of termination of this Agreement under any of the foregoing provisions of this Clause 17 the terms and conditions of this Agreement will continue to apply to Orders issued by Purchasers prior to the termination of this Agreement.

17.4 The provisions of Clauses 17.1 and 17.2 above shall apply to contracts between Fulfillment Service Agents and Purchasers arising pursuant to Orders placed by Purchasers and the parties thereto shall be entitled to terminate any such contract in accordance with those terms whether or not this Agreement is terminated.

## 18. LIABILITY

- 18.1 Fulfillment Service Agents shall, and GlobalServe shall procure that Fulfillment Service Agents shall, indemnify relevant Purchasers and keep them fully and effectively indemnified on demand against death or personal injury or any loss or damage to any tangible property arising out of or in connection with contracts in pursuance of Orders hereunder, Provided That, the maximum liability in respect of each incident or series of connected incidents, or for indemnification under Section 14, shall be US \$10 million.
- 18.2 NOTWITHSTANDING ANYTHING ELSE CONTAINED IN THIS AGREEMENT, NEITHER BP NOR GLOBALSERVE SHALL BE LIABLE TO THE OTHER FOR LOSS OF PROFITS OR CONTRACTS OR OTHER INDIRECT, INCIDENTAL OR CONSEQUENTIAL LOSS WHETHER ARISING FROM NEGLIGENCE, BREACH OF CONTRACT OR HOWSOEVER AND SIMILARLY NEITHER THE RELEVANT FULFILLMENT SERVICE AGENT NOR THE RELEVANT PURCHASER UNDER ANY CONTRACT ARISING IN PURSUANCE OF AN ORDER SHALL BE LIABLE TO THE OTHER FOR LOSS OF PROFITS OR CONTRACTS OR OTHER INDIRECT, INCIDENTAL OR CONSEQUENTIAL LOSS WHETHER ARISING FROM NEGLIGENCE, BREACH OF CONTRACT OR HOWSOEVER.
- 18.3 Save as set out in the foregoing provisions of this Clause 18 and elsewhere in this Agreement including the Schedules the liability of a Fulfillment Service Agent under any contract arising in pursuance of an Order shall not exceed the amount of consideration of such contract.

## 19. INSURANCE

- 19.1 GlobalServe shall during the term of this Agreement, maintain an insurance policy covering liability for physical damage to or loss of tangible property arising in respect of each incident or series of connected incidents to a minimum limit of US\$ 10 million.

19.2 GlobalServe shall procure that each Fulfillment Service Agent shall during the term of this Agreement, maintain an insurance policy covering statutory worker's compensation and employers' liability, and comprehensive or general liability, including contractual and products/completed operations coverage.

**20. AUDIT**

20.1 Purchasers may, upon request, at a mutually agreed time and place and at Purchaser's expense, audit any and all Purchaser generated sales documents in GlobalServe's possession and/or the possession of Fulfillment Service Agents. All Fulfillment Service Agents will and GlobalServe will procure that Fulfillment Service Agents will maintain their books and records relating to Products and Services supplied hereunder for a period of two (2) years from the date of such supply and will allow Purchasers access to such books and records in connection with any audit under this Clause.

**21. TAXES**

21.1 All charges and credits provided under this Agreement are exclusive of value added taxes or similar taxes ("Sales Taxes") which apply or may from time to time be introduced, which shall be imposed in accordance with the relevant regulations in force at the time of making the supply. Purchasers will pay all such Sales Taxes properly invoiced in addition to the price of the Product and /or Services.

21.2 GlobalServe shall procure that each Fulfillment Service Agent (and GlobalServe when required) shall invoice and collect Sales Taxes from Purchasers in the same manner as they generally collect Sales Taxes from their other customers in the ordinary course of their business and shall be solely responsible for remitting such Sales Taxes to the relevant taxing authority.

21.3 GlobalServe and Fulfillment Service Agents shall be duly registered in the relevant country, relevant states and relevant localities for the purpose of Sales Taxes where such registration is relevant and the legislation so requires.

21.4 Valid invoices shall be issued by Fulfillment Service Agents or GlobalServe in respect of all payments due under this Agreement and shall conform with all relevant fiscal requirements (including those applicable in any relevant country) and shall separately show all Sales Taxes. Where required by the relevant fiscal regulations, invoices shall show the relevant currency and any conversion of Sales Taxes into any currency required to be shown in accordance with the relevant fiscal regulations of the country or countries concerned.

**22. WORKSPACE AND MATERIALS**

22.1 Each Purchaser will provide reasonable work space with adequate lighting, ventilation and temperature, general office supplies, and appropriate computer time for a Fulfillment Service Agent's personnel while working on a Purchaser's premises. Any additional or unusual materials needed by the Fulfillment Service Agent's personnel

in connection with the performance of Services hereunder shall be provided by the Fulfillment Service Agent or as otherwise specified in the applicable Order.

**23. USE OF PREMISES**

- 23.1 Fulfillment Service Agents shall and GlobalServe shall procure that all Fulfillment Service Agents shall perform all Services required under the applicable Order in such a manner as to cause a minimum of interference with Purchasers' operations and the operations of other sellers, suppliers and contractors on Purchasers premises.
- 23.2 Purchasers may use the premises at the work site for their own purposes in any manner they deem appropriate, provided however, the Purchasers' use of such premises shall not unduly interfere with the Services required of the Fulfillment Service Agent under the applicable Order.
- 23.3 Fulfillment Service Agents shall and GlobalServe shall procure that all Fulfillment Service Agents shall take all necessary precautions to protect the Products and Services furnished (including work, supplies and materials furnished by Purchasers) from loss or damage.
- 23.4 Fulfillment Service Agents shall and GlobalServe shall procure that promptly upon completing the Services required under each applicable Order, Fulfillment Service Agents shall remove all tools, supplies, materials and equipment from the work site, remove all waste materials and rubbish of any kind resulting from the Services, dispose of such waste materials and rubbish in a manner satisfactory to Purchasers and restore the job site and the area adjoining the job site to a condition satisfactory to Purchasers. In the event any waste materials or rubbish involves hazardous substances and/or hazardous waste within the meaning of any applicable law or regulation, the disposal of such hazardous substances and/or hazardous waste shall be subject to the prior approval by Purchasers and the relevant Fulfillment Service Agent shall and GlobalServe shall procure that Fulfillment Service Agents shall furnish Purchasers with written evidence of proper lawful disposal satisfactory to the relevant Purchaser. The Fulfillment Service Agents shall be liable for any environmental damage, or other damage to persons or property, including cleanup costs and expenses caused by or resulting from the Fulfillment Service Agents' possession, use and/or improper or unlawful disposal of hazardous substances, waste materials or rubbish.

**24. COMPETENT PERSONNEL**

- 24.1 Fulfillment Service Agents shall and GlobalServe shall procure that all Fulfillment Service Agents shall furnish and shall cause any subcontractors to furnish, only orderly and competent personnel on Purchasers' premises.
- 24.2 In the event that a Fulfillment Service Agent's personnel or its subcontractor's personnel are, in a Purchaser's opinion, objectionable or disorderly at the work site or upon a Purchaser's premises, upon receipt of the Purchaser's complaint, the Fulfillment Service Agent shall and GlobalServe shall procure that the relevant Fulfillment Service Agent shall immediately investigate, and if the Purchaser's complaint is verified, such personnel shall be forthwith removed from the Purchaser's

premises and shall not be allowed to return without the Purchaser's prior written consent.

**25. SAFETY**

- 25.1 Fulfillment Service Agents shall and GlobalServe shall procure that Fulfillment Service Agents shall abide by, as a minimum, all of Purchasers' applicable safety and health rules identified in BP's Contractor Safety, Health and Environmental Policy, for the time being in force. A copy of the current issue is attached at Schedule 5.
- 25.2 GlobalServe shall and shall procure that Fulfillment Service Agents abide by, as a minimum, BP's Contractor Substance Abuse Policy attached at Schedule 6. In addition, GlobalServe and Fulfillment Service Agents shall maintain a drug and alcohol-free work force at all times while on Purchasers' premises.
- 25.3 GlobalServe shall and shall procure that Fulfillment Service Agents shall comply with all applicable industry and governmental safety and health requirements and any other applicable federal, state and/or governmental safety or health laws, rules or regulations.
- 25.4 Purchasers or Fulfillment Service Agents shall have the authority to issue an immediate stop work order in the event of a violation of safety procedures or violation of applicable laws, ordinances, rules, regulations, or orders, or any discharge, emission or spill of toxic, polluting or hazardous substance or any accident which poses a substantial endangerment to health, life or property or when, in such Purchaser's or Fulfillment Service Agent's reasonable judgment any such violation, discharge, accident or condition is likely to occur. Purchasers or Fulfillment Service Agents, as the case may be, shall have no liability for any cost, expense or penalty resulting from any work stoppage due to any such stop work order or for the failure to issue any stop work order if such work stoppage occurs as a direct result of a Purchaser's or Fulfillment Service Agent's or its subcontractor's negligence or intentional conduct.

**26. LIENS**

- 26.1 Fulfillment Service Agents shall and GlobalServe shall procure that Fulfillment Service Agents pay promptly all indebtedness for labour, materials, tools and equipment (excluding Purchaser supplied items) used in the performance of each Order. If any lien shall become attached to the premises of a Purchaser, its parent, affiliates or subsidiaries as a result of the Services performed, the Fulfillment Service Agent shall and GlobalServe shall procure that the Fulfillment Service Agent shall promptly procure its release and hold a Purchaser, its parent, affiliates or subsidiaries harmless from all losses, costs, damages, or expenses including reasonable attorneys' fees caused by or resulting from such lien.

**27. CONFLICT OF INTEREST**

- 27.1 GlobalServe warrants that neither it nor any Fulfillment Service Agent has given any commissions, payments, gifts, kickbacks, lavish or extensive entertainment or other

things of value to any employee or agent of BP or any third party, nor received any commissions, payments, gifts, kickbacks, lavish or extensive entertainment or other things of value from any such person in connection with this Agreement or any Order to be issued in pursuance hereof and acknowledges that the giving or receiving of any such payments, gifts, entertainment or other things of value is strictly in violation of BP's corporate policy and may result in the termination of this Agreement and/or any contract arising from any Order placed by a Purchaser. GlobalServe shall notify BP's security department of any such solicitation by any of Purchasers' employees, agents or any third party.

## 28. NOTICES

28.1 Except for routine operational correspondence, all notices, requests, claims, demands and other communications between BP and GlobalServe under this Agreement shall be in writing and shall be given or made (and shall be deemed to have been duly given or made upon receipt) by delivery in person, by overnight courier service (with signature required), by facsimile or electronic mail, or by registered or certified mail (postage prepaid, return receipt requested) to the respective parties at the following addresses:

(a) if to GlobalServe:

GlobalServe Computer Services Limited  
Carmelite,  
50 Victoria Embankment  
Blackfriars  
London EC4Y OLS  
England  
Telephone: 01 784 410017  
Fax: 01 784 410335

with a copy to:

Secretary  
GlobalServe Computer Services Limited  
70 West Red Oak Lane  
Fourth Floor  
White Plains, New York 10604-3602  
U.S.A.  
Telephone: (914) 697-7522  
Fax: (914) 697-7525

(b) if to BP:

28.2 Any notice or other communication sent by registered or certified mail will be deemed to have been received on the second day after posting and if any such communication if sent internationally will be deemed to have been received if sent by post on the fifth

day after posting. Any communication by facsimile or electronic mail will be deemed to have been received on the date of transmission.

**29 ASSIGNMENT**

29.1 This Agreement shall extend to and be binding upon the parties hereto and their successors and permitted assigns. Neither BP nor GlobalServe shall assign or otherwise transfer this Agreement or any of its rights and obligations hereunder whether in whole or in part without the prior written consent of the other.

**30. MISCELLANEOUS**

**30.1 Commitment to MBE and WBE Programs:**

- 30.1.1 Fulfillment Service Agents will, in performing the services hereunder in the United States, use their best efforts to give minority business enterprises (MBEs) and women business enterprises (WBEs) the maximum practicable opportunity to participate in the subcontracts it awards to the fullest extent consistent with efficient performance of its contract.
- 30.1.2 The goal for utilisation of MBEs under this contract is set at 20%.
- 30.1.3 The goal for utilisation of WBEs under this contract is set at 20%.

**30.2 Headings**

The headings used in this Agreement are for reference purposes only and should not be used to modify the meaning of the terms and conditions of this Agreement.

**30.3 Severability**

If any clause, phrase or provision of this Agreement is determined invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining Clauses, phrases, or provisions will not in any way be affected or impaired so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party.

**30.4 Counterparts**

This Agreement may be executed in two or more counterparts each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**30.5 Waiver**

The waiver of any breach or failure to enforce any of the terms or conditions of this Agreement or course of conduct at any time shall not limit or waive either party's rights thereafter to enforce or compel strict compliance with every item and condition of this Agreement.

30.6 Entire Agreement

This Agreement supersedes all prior agreements, arrangements and understandings between the parties and together with the Schedules hereto constitutes the entire agreement between the parties relating to the subject matter hereof. No addition to or modification of any provision of this Agreement shall be binding upon the parties unless made by a written instrument signed by a duly authorised representative of each of the parties. The duly authorised representative of BP for the purpose of any amendment of the Schedules shall be the BP Relations Manager or his nominee. The duly authorised representative of GlobalServe for the purpose of any amendment of the Schedules shall be the CEO or his nominee.

30.7 Publicity

Each party agrees to keep the existence and nature of this Agreement and the provisions, terms and conditions thereof confidential and not to use the same or the name of the other party in any publicity, advertisement or other disclosure with regard to this Agreement without the prior written consent of the other party.

30.8 Non-Solicitation

30.8.1 Neither BP nor GlobalServe, shall in respect of this Agreement nor in the context of contracts created as a result of Orders issued pursuant to this Agreement shall Fulfillment Service Agents or Purchasers, during the term of this Agreement or within six months of its termination or expiry employ and/or solicit directly or indirectly any employees of the other parties who have been involved in or are otherwise connected with this Agreement.

30.8.2 This Clause will not prohibit the employment of any such aforesaid employee:

30.8.2.1 who applies unsolicited in response to a general advertising or other general recruitment campaign; or

30.8.2.2 whose employment has been agreed in writing by the relevant party.

30.9 Interpretation

Throughout this Agreement words importing the singular shall include the plural, words importing any gender shall include every gender and words importing persons include bodies corporate and unincorporate and, in each case, vice versa.

31. Law

31.1 This Agreement and all contracts arising in pursuance of Orders placed hereunder shall be governed, construed and take effect in all respects in accordance with the laws of England, without prejudice to the application of the laws of any other jurisdiction which are not capable of exclusion.

IN WITNESS WHEREOF BP and GlobalServe have caused this Agreement to be executed  
as of the date first above written by their respective duly authorised officers.

BP INTERNATIONAL LIMITED

GLOBALSERVE INTERNATIONAL  
LIMITED

By:.....

By:.....

Name:.....

Name:.....

Title:.....

Title:.....

**AGREEMENT BETWEEN**  
**WORLDSPAN SERVICES LIMITED**  
**and**  
**GLOBALSERVE COMPUTER SERVICES LIMITED**

This Agreement is made on the 1st day of January 2000 between WORLDSPAN Services Limited, a Company registered in England, whose registered office is at Axis House, 242 Bath Road, Hayes, Middlesex, England UB3 5AY (hereinafter "WORLDSPAN") on the one part, and

GLOBALSERVE Computer Services Limited, a Company registered in England, with a place of business at Centurion House, London Road, Staines, Middlesex TW18 4AX (hereinafter "GLOBALSERVE") on the other part.

WHEREAS, WORLDSPAN is a provider of computerised information services and computer systems for the travel industry and desires to procure maintenance services for itself and its customers; and

WHEREAS, GLOBALSERVE is a global Internet based technology management services company and a provider of computer maintenance services and desires to provide on-site computer maintenance service to WORLDSPAN's customers on behalf of WORLDSPAN.

NOW, THEREFORE, for and in consideration of the promises, mutual covenants, and representations contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

#### **ARTICLE I - DEFINITIONS**

1.1. "Affiliated Company" means any entity controlling or controlled by or under common control with a party, where "control" is defined as (i) the ownership of at least fifty percent (50%) of the equity or beneficial interest of such entity or the right to vote for or appoint a majority of the board of directors or other governing body of such entity, or (ii) the power to directly or indirectly direct or cause the direction of the management and policies of such entity by any means whatsoever.

1.2. "Confidential Information" shall mean secret, confidential or proprietary information including, but not limited to, technical and financial information and customer or client lists related to a party or its programs or procedures. Confidential Information shall also include, without limitation, computer databases, forms and form letters, form contracts, trade secrets, business plans, budget forecasts, software, contracts, and business arrangements, information regarding specific transactions, financial information and estimates, and long-term plans and goals.

1.3. "Customer" shall mean any WORLDSPAN office, WORLDSPAN distributor, WORLDSPAN travel agency, or other end user of WORLDSPAN services, in each case listed on the then-current Equipment Database.

1.4. "Effective Date" means the date defined in Section 2.1.

- 1.5. "Out of Scope Services" has the meaning set forth in Attachment 5 hereto.
- 1.6. "Service(s)" means the services described on Attachment 1 hereto.
- 1.7. "Service Level Targets" means the service level targets set forth on Attachment 2 hereto.
- 1.8. "Term" has the meaning set forth in Section 2.1.

## **ARTICLE II - EFFECTIVE DATE & TERM**

2.1. The term of this Agreement will be thirty six (36) months (the "Term"), effective date from 1<sup>st</sup> of January 2000 (the "Effective Date"), unless renewed pursuant to this Section 2.1 or unless earlier terminated pursuant to Article 3. This Agreement shall automatically renew for successive twelve (12) month periods unless terminated by either party upon written notice at least ninety (90) days prior to the termination of the then-current Term.

## **ARTICLE III - TERMINATION**

### **3.1. Termination by Either Party**

Either party shall be entitled to terminate this Agreement:

i) If the other party shall refuse, neglect or fail to perform, observe or keep any of the material covenants, terms or conditions contained herein, and such refusal, neglect or failure shall continue for a period of thirty (30) days after written notice thereof, the non-defaulting party shall have the right, in addition to any other right or remedy it may have, to terminate this Agreement; provided, however, that in no event may WORLDSPAN terminate this Agreement based on GLOBALSERVE's performance of Services except as provided in Section 3.2.

ii) If a voluntary or involuntary petition in bankruptcy is commenced by or against either party or a party becomes insolvent, or should any substantial part of either party's property be subject to any levy, seizure, assignment, application or sale for or by any creditor or governmental agency, the other party may terminate this Agreement. The party seeking to terminate this Agreement shall give the other party notice of any of the foregoing in this subparagraph claimed to be a basis for termination, and the Agreement shall terminate thirty (30) days after the receipt of the notice if the party receiving the notice has then failed to correct or remedy the situation.

### **3.2. Termination for Failure by Supplier to Meet Targets**

In the event that GLOBALSERVE fails to meet the Service Level Targets during each of any four (4) consecutive months or any six (6) months in a twelve month period, excluding

the three month period commencing on January 1, 2000, WORLDSPAN may at its sole discretion terminate this Agreement without financial penalty following thirty (30) days' prior written notice. In such event, WORLDSPAN shall not be required to pay any termination charges or fees under this Agreement except for fees for services rendered by GLOBALSERVE prior to the effective date of termination.

#### **ARTICLE IV - CHARGES AND PAYMENTS**

##### **4.1. Fees**

The fees for Services set forth in Attachment 3 shall be invoiced to WORLDSPAN following the end of the month when such Services are furnished and shall be due and payable by WORLDSPAN thirty (30) days from receipt of such invoice from GLOBALSERVE. Unless specifically indicated all fees for Services are exclusive of all applicable value added, sales, use or excise taxes.

##### **4.2. Denomination**

All invoices will be denominated in Great British Pounds (GBP).

##### **4.3. Invoices**

GLOBALSERVE's monthly invoice shall be consistent with the database of equipment covered by this Agreement provided to GLOBALSERVE by WORLDSPAN. GLOBALSERVE shall, provide WORLDSPAN with electronic data in support of billing information. The parties may mutually agree in writing to changes in invoicing procedures and to the use of alternative invoicing methods.

##### **4.4. Credits**

Each invoice will set forth deductions attributable to failure to meet Service Level Targets as set forth on Attachment 2 and will provide for right of set off for any amounts owed by GLOBALSERVE for service provided by WORLDSPAN.

##### **4.5. Disputed Charges**

Charges which are subject to a bona fide dispute shall not be due until the dispute is resolved. A bona fide dispute shall mean a good faith dispute concerning, for example, inaccuracies in hourly rates, covered services or parts actually used in services. Either or both parties shall pay all non-disputed amounts as set forth above less only charges related to bona fide disputes.

Both parties shall endeavour to resolve bona fide invoice disputes within 30 days of receipt of notice of such dispute, failure to resolve such dispute within such 30 day period shall result in a separate meeting being held between officers of WORLDSPAN and

GLOBALSERVE. The meeting shall be minuted, with actions and time frames for resolution to be agreed upon by WORLDSPAN and GLOBALSERVE.

**4.6. Invoices for Out of Scope Service(s)**

Time and/or material charges for Out of Scope Services will be invoiced on a current basis as Out of Scope Services are performed at the rates set forth in Attachment 5. As billing authorisation for Out of Scope Services, WORLDSPAN will submit a verbal or electronic case identifier and a description of the Out of Scope Service requested and notify the GLOBALSERVE dispatcher. All Out of Scope Services shall be billable as such services are performed, and payable within thirty (30) days of receipt of the invoice for such services. All invoices for Out of Scope Services must reference the appropriate WORLDSPAN case identifier and shall be submitted to WORLDSPAN within sixty (60) days of conclusion of service delivery.

**4.7. Taxes**

WORLDSPAN reserves the right to appeal or protest any tax liability of WORLDSPAN arising under this Agreement and GLOBALSERVE shall take all reasonably required actions to permit WORLDSPAN to exercise such right. GLOBALSERVE shall notify WORLDSPAN immediately upon notification by any taxing authority that any item related to this Agreement is being examined or challenged.

GLOBALSERVE reserves the right to appeal or protest any tax liability of GLOBALSERVE arising under this Agreement and WORLDSPAN shall take all reasonably required actions to permit GLOBALSERVE to exercise such right. WORLDSPAN shall notify GLOBALSERVE immediately upon notification by any taxing authority that any item related to this Agreement is being examined or challenged.

**4.8. Tax Exclusion**

WORLDSPAN shall be excluded from paying any tax based on or measured by gross income or gross receipts of GLOBALSERVE; any penalties, fines, and other such charges due to the failure of GLOBALSERVE to timely pay when due any taxes for which it is responsible for remitting or taxes owed by it under this Agreement; and any franchise tax to the extent measured by GLOBALSERVE's capital, capital stock, or net worth.

GLOBALSERVE shall be excluded from paying any tax based on or measured by gross income or gross receipts of WORLDSPAN; any penalties, fines, and other such charges due to the failure of WORLDSPAN to timely pay when due any taxes for which it is responsible for remitting or taxes owed by it under this Agreement; and any franchise tax to the extent measured by WORLDSPAN's capital, capital stock, or net worth.

**4.9**

The parties acknowledge that with respect to certain countries covered by this Agreement for which GLOBALSERVE shall be using incumbent contractors to perform the

Services, the fees associated with such countries are difficult to determine as of the Effective Date. Within three (3) months of the Effective Date, the parties shall enter into negotiations to determine mutually agreeable fees for such countries. In the event that the parties are unable to reach agreement with respect to such fees, GLOBALSERVE may, upon notice to WORLDSPAN, immediately terminate this Agreement with respect to any or all of the countries for which agreement is not reached.

## **ARTICLE V - AUDIT**

### **5.1. Auditing of Books and Records**

GLOBALSERVE will provide reasonable assistance to WORLDSPAN in meeting WORLDSPAN's audit and regulatory requirements, and shall provide reasonable access to its books and records pertaining to Services provided to WORLDSPAN to enable WORLDSPAN and its auditors and examiners to conduct appropriate audits and examinations of the operations of GLOBALSERVE. Such audits and examinations shall be limited to those required by law, and, at any time up to one (1) year after payment by WORLDSPAN of any GLOBALSERVE invoice, those required in order for WORLDSPAN to verify (1) the accuracy of such invoice, or (2) that services performed under such invoice were performed in accordance with the terms of this Agreement. Such access will require 72 hour notice to GLOBALSERVE and will be provided at reasonable hours, provided that any audit does not interfere with GLOBALSERVE's ability to perform the Services hereunder or affect services to other GLOBALSERVE customers. GLOBALSERVE will provide access only to information reasonably necessary to perform the audits; provided, however, that GLOBALSERVE shall not allow WORLDSPAN, its examiners or auditors access to information related to other GLOBALSERVE customers or GLOBALSERVE's proprietary data, at any time up to two (2) years after any payment/reimbursement, and to examine the records and books of account of EPS in connection therewith.

If any audit or examination reveals that GLOBALSERVE's invoices for the audited period are not correct for such period, GLOBALSERVE shall promptly reimburse WORLDSPAN for the amount of any overcharges, or WORLDSPAN shall promptly pay GLOBALSERVE for the amount of any undercharges.

## **ARTICLE VI - CONFIDENTIAL INFORMATION**

**6.1. Confidential Information supplied by one party to another pursuant to this Agreement is for the exclusive use of the receiving party and shall not be disclosed or made available to any other person, firm, corporation or governmental entity in any form or manner whatsoever (except the owners, partners, attorneys, auditors or contractors of the parties hereto who have a need to know such information and who shall abide by this provision); provided, however, that in the event Confidential Information is subpoenaed or otherwise requested or demanded by any court or governmental authority, the receiving party shall give written notice to the disclosing party prior to furnishing the same and shall exercise its reasonable business efforts, in co-operation with and at the sole cost of the disclosing party, to**

quash or limit such request, demand and/or subpoena. The receiving party's obligations include treating Confidential Information with at least the concern and protective measures accorded any trade secrets and confidential materials of the receiving party. Nothing herein shall be construed to require the disclosure of Confidential Information to the receiving party, or to require the receiving party to accept Confidential Information.

## ARTICLE VII - INTELLECTUAL PROPERTY

### 7.1. GLOBALSERVE Intellectual Property

WORLDSPAN agrees that it has no right whatsoever to any or all GLOBALSERVE designs, processes or inventions, including but not limited to, software related inventions or processes and works of authorship existing, made by, conceived by, or in the process of development by GLOBALSERVE prior to or after the Effective Date and shall also have no right to any invention, process, design and/or software innovations and works of authorship developed, conceived, written, created or made by GLOBALSERVE or its employees that does not incorporate any Confidential Information of WORLDSPAN.

### 7.2. WORLDSPAN Intellectual Property

GLOBALSERVE agrees that it has no right whatsoever to any or all WORLDSPAN designs, processes or inventions, including but not limited to, software related inventions or processes and works of authorship existing, made by, conceived by, or in the process of development by WORLDSPAN prior to or after the Effective Date and shall also have no right to any invention, process, design and/or software innovations and works of authorship developed, conceived, written, created or made by WORLDSPAN or its employees that does not incorporate any Confidential Information of GLOBALSERVE.

### 7.3. Generic Information

WORLDSPAN agrees that GLOBALSERVE shall own all generic support information technology used in the provision of the Services, provided that such generic support information technology shall not include any WORLDSPAN confidential Information.

## ARTICLE VIII - WARRANTIES AND DISCLAIMERS

### 8.1. Year 2000 Compliance

GLOBALSERVE warrants that it has taken or is taking reasonable business steps to ensure that any computer systems or software used in the operation of GLOBALSERVE's business in performing the Services are Year 2000 Compliant and that GLOBALSERVE does not anticipate interruption or abnormalities in performing the Services due to failure to be Year 2000 Compliant. For purposes of this paragraph, "Year 2000 Compliant" shall mean that computer software and hardware provide uninterrupted millennium functionality in that

the computer software and hardware will record, store, process and present calendar dates falling on or after January 1, 2000, in the same manner and with the same functionality as the computer software and hardware record, store, process, and present calendar dates falling on or before December 31, 1999.

#### **8.2. Disclaimer**

THE EXPRESS WARRANTY SET FORTH IN SECTION 10.1 IS THE ONLY WARRANTY GIVEN BY GLOBALSERVE WITH RESPECT TO ANY MATERIALS OR SERVICES FURNISHED UNDER THIS AGREEMENT. GLOBALSERVE MAKES NO OTHER WARRANTIES, CONDITIONS, OR REPRESENTATIONS, EXPRESS, IMPLIED OR ARISING BY TRADE USAGE, AND SPECIFICALLY DISCLAIMS THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. NO ORAL OR WRITTEN INFORMATION NOT PROVIDED IN THIS AGREEMENT, OR ADVICE GIVEN BY GLOBALSERVE OR ITS AUTHORIZED REPRESENTATIVES, SHALL CREATE WARRANTIES OR IN ANY WAY INCREASE THE SCOPE OF THE WARRANTY HEREUNDER. IN NO EVENT MAY WORLDSPAN BRING ANY CLAIM, ACTION OR PROCEEDING ARISING OUT OF ANY WARRANTY SET FORTH IN THIS ARTICLE 8 MORE THAN ONE YEAR AFTER THE DATE ON WHICH WORLDSPAN BECAME AWARE THAT THE BREACH OF SUCH WARRANTY OCCURRED.

#### **8.3. Limitation on Liability**

NEITHER PARTY SHALL HAVE ANY LIABILITY WITH RESPECT TO ITS OBLIGATIONS UNDER THIS AGREEMENT FOR INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR SPECIAL DAMAGES, INCLUDING ANY DAMAGES RESULTING FROM LOSS OF USE, DATA, LOSS OF PROFITS OR LOSS OF BUSINESS, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL EITHER PARTY'S LIABILITY UNDER THIS AGREEMENT EXCEED THE AGGREGATE SUM OF ALL FEES PAID BY WORLDSPAN UNDER THIS AGREEMENT IN THE SIX (6) MONTHS PRECEDING ANY CLAIM OR CAUSE OF ACTION BROUGHT AGAINST GLOBALSERVE.

#### **8.4. No Third Party Damages**

GLOBALSERVE shall not be held responsible for, or be liable to any third party, including Customers, for any damages or losses of any type, including incidental, consequential, exemplary, or special damages arising from Services performed under this Agreement, and WORLDSPAN shall indemnify, defend and hold harmless GLOBALSERVE, its directors, affiliates, partners, officers, employees and agents, from and against all claims, demands, suits, causes of action, losses, damages, judgments, costs and expenses (including reasonable legal fees) arising out of or in connection with such third party claims.

## **ARTICLE IX - PROFESSIONAL SERVICES**

### **9.1. Workmanlike Manner**

GLOBALSERVE covenants that it will perform the Services hereunder in a professional and workmanlike manner using fully trained and qualified individuals capable of performing the Services in accordance with industry standards and practices reasonably applicable to the performance of such Services.

### **9.2. Agents**

GLOBALSERVE may use sub-contracted GLOBALSERVE service fulfilment agents to provide Services under this Agreement. In the event that any Services are provided by GLOBALSERVE sub-contractors, then GLOBALSERVE shall assume the responsibility that such sub-contractors satisfy GLOBALSERVE's obligations under this Agreement.

## **ARTICLE X - INDEMNIFICATION**

### **10.1. GLOBALSERVE Indemnity**

Subject to the terms of Article 8, GLOBALSERVE shall indemnify, defend and hold harmless WORLDSPAN, its directors, affiliates, partners, officers, employees and agents, from and against all liabilities, damages and expenses, and claims for damages, suits, proceedings, recoveries, judgements or executions (including but not limited to litigation costs, expenses, and reasonable legal fees) arising out of or in connection with any breach of GLOBALSERVE's covenants, warranties and obligations set forth in this Agreement.

### **10.1. WORLDSPAN Indemnity**

Subject to the terms of Article 10, WORLDSPAN shall indemnify, defend and hold harmless GLOBALSERVE, its directors, affiliates, partners, officers, employees and agents, from and against all liabilities, damages and expenses, and claims for damages, suits, proceedings, recoveries, judgements or executions (including but not limited to litigation costs, expenses, and reasonable legal fees) arising out of or in connection with either parties breach of WORLDSPAN's covenants, warranties and obligations set forth in this Agreement.

## **ARTICLE XI - GENERAL PROVISIONS**

### **11.1. Independent Contractor**

The parties are and will remain at all times independent contractors, and no agency, employment, partnership or joint venture relationship exists between them. Neither party hereto shall have, or shall represent that it has, any power, right or authority to bind the other party hereto to any obligation or liability, or to assume or create any obligation or liability on behalf of the other party. Nothing in this Agreement is intended or shall be construed to

create or establish an agency, partnership, joint venture or fiduciary relationship between the parties. GLOBALSERVE shall be an independent contractor, maintaining complete control over its personnel and operations.

#### **11.2. Waiver**

No waiver by either party of any provision or any breach of this Agreement constitutes a waiver of any other provision or breach of this Agreement and no waiver shall be effective unless made in writing. The right of either party to require strict performance and observance of any obligations thereunder shall not be affected in any way by any previous waiver, forbearance or course of dealing.

#### **11.3. Force Majeure**

Neither party will be deemed in default of this Agreement as a result of a delay in performance or failure to perform its obligations caused by acts of God or governmental authority, strikes or labour disputes, fire, flood, acts of war, , or for any other cause beyond the control of that party.

#### **11.4. Assignment**

This Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and permitted assigns. This Agreement may not be assigned by either party without the prior written consent of the other party except that either party may, without the consent of the other party, assign this Agreement to an Affiliated Company or to a successor in interest.

#### **11.5. Publicity and Advertising**

Neither party shall publish or use any advertising, sales or promotion or other publicity which uses the other party's company name, logo, trademarks or service marks, without the prior written consent of the other party.

#### **11.6. Severability**

In the event that any material provision of this Agreement is determined to be invalid, unenforceable or illegal, then such provision shall be deemed to be superseded and the Agreement modified with a provision which most nearly corresponds to the intent of the parties and is valid, enforceable and legal.

#### **11.7. Entire Agreement and Amendment**

This Agreement, together with the Attachments hereto, which are incorporated herein in the entirety, constitute the final and complete understanding and agreement between the parties concerning the subject matter hereof. Any prior agreements, understandings, negotiations or communications written or otherwise are deemed superseded by this

Agreement. This Agreement may be modified only by a further written agreement executed by an authorised representative of the parties hereto.

**11.8. No Exclusivity**

This Agreement does not grant GLOBALSERVE any exclusive rights privileges or interest with regard to the provision of services to WORLDSPAN.

**11.9. No Third Party Beneficiaries**

This Agreement shall be binding upon and inure solely to the benefit of the parties hereto and their permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

**11.10. Notice**

Notices and other communications required or otherwise given hereunder shall be in writing, shall be made in person, by overnight delivery service, by registered or certified mail, or by facsimile, and shall be deemed to have been adequately given when delivered.

If to WORLDSPAN:

Commercial Department  
WORLDSPAN Services Limited  
Axis House  
242 Bath Road  
Hayes, Middlesex UB3 5AY  
England  
Phone:(181) 745-1900  
Fax:(181) 745-1909

with copy to:

Secretary  
WORLDSPAN Services Limited  
c/o WORLDSPAN, L.P.  
300 Galleria Parkway  
Atlanta, Georgia 30339  
U.S.A.  
Phone:(770) 563-7400  
Fax:(770) 563-7878

If to GLOBALSERVE:

GLOBALSERVE Computer Services Limited  
Centurion House,  
London Road,  
Staines,  
Middlesex. TW18 4AX

England.  
Phone:01784 410017  
Fax:01784 410335

with copy to:

Secretary  
GLOBALSERVE Computer Services Limited  
70 West Red Oak Lane  
Fourth Floor  
White Plains, New York 10604 - 3602  
U.S.A.  
Phone: (914) 697 7522  
Fax: (914) 697 7525

or as any party may from time to time designate in writing.

#### 11.11. Governing Law and Jurisdiction

This Agreement shall be governed by, and construed in accordance with, the laws of England. The parties hereto unconditionally and irrevocably agree and consent to the exclusive jurisdiction of the courts located in London, England and waive any objection with respect thereto, for the purpose of any action, suit or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby and further agree not to commence any such action, suit or proceeding except in any such court.

#### 11.12. Captions

The captions in this Agreement are for convenience only and in no way define, limit, or enlarge the scope of this Agreement or any of the provisions therein.

Whereby, the undersigned parties executed this Agreement by their duly authorised representatives in duplicate originals by their signatures, as affixed below:

Signed for and on behalf of:  
GLOBALSERVE Limited  
By:

Name: Mr. Jonathan Edwards  
Title: Chief Executive Officer  
Date:

Signed for and on behalf of:  
WORLDSPAN Services Limited  
By:

Name: Mr. Neil Beck  
Title: VP International  
Date:

**Index to Attachments**

1. Description of services
2. Service Levels
3. Financial Terms
4. Remoteservicedesk.com Database Accuracy
5. Out of Scope Services
6. Territories & Principal Business Hours
7. Service Definition Document - Separate document

Attachment 1

SERVICE DESCRIPTION

Overview

GLOBALSERVE will provide through its network of sub-contracted GLOBALSERVE service fulfilment agents a managed on-call service within the maintenance periods specified in this Agreement for remedying faults and breakdowns.

GLOBALSERVE will provide this service to a number of pre-agreed international WORLDSPAN locations as defined in Attachment 6. This service will be subject to Service Levels as defined in this document and detailed further in the *Service Definition Document*.

The primary means of communication and reporting will be GLOBALSERVE's Internet application: 'remoteservicedesk.com'.

Provision of Repair Services

Upon a call being placed by WORLDSPAN, the GLOBALSERVE will use reasonable endeavours to provide engineering resources to effect a repair within the response time specified in this document. If the engineer cannot repair the fault within the Service Level specified for the repair then the engineer will install a replacement unit of equal or better specifications.

Where a machine has been replaced as part of the on-site repair process, and where the machine removed is of a specification such that it is itself unlikely to be used at an alternative location as a replacement spare, then GLOBALSERVE shall, at the expense of WORLDSPAN, supply a permanent replacement unit.

Beyond Economic Repair

If faulty Equipment is beyond economic repair, GLOBALSERVE shall, at the expense of WORLDSPAN, supply a permanent replacement unit. For the avoidance of doubt Equipment shall be deemed beyond economic repair when the repair cost exceeds the current replacement value of the faulty Equipment or where suitable replacement parts are no longer available.

Further details of Beyond Economic Repair criteria are provided in the *Service Definition Document*.

Service Process

Initially the WORLDSPAN customer (the 'Travel Agent') will call and log a fault with the applicable WORLDSPAN helpdesk. The WORLDSPAN helpdesk will attempt to resolve the call over the telephone. If the fault cannot be resolved and WORLDSPAN helpdesk decides that an on-site attendance is required, the WORLDSPAN helpdesk will

enter details of the call onto GLOBALSERVE's Internet based helpdesk application remoteservicedesk.com.

The GLOBALSERVE International Service Desk (the 'ISD') will retrieve the details of the call from the remoteservicedesk.com system and will process and assign the call details to a GLOBALSERVE service fulfilment agent .

The GLOBALSERVE service fulfilment agent will pick up the details of the call from the remoteservicedesk.com system and will call the Travel Agent to confirm the details of the call and to confirm the estimated arrival time of an engineer. The GLOBALSERVE service fulfilment agent will dispatch a suitably trained engineer to attend the site and effect a repair. In effecting a repair, repair activities may include but not be limited to:

- 1) Loading a specific Worldspan software image
- 2) Replacing faulty components
- 3) Replacing entire Equipment

When a repair is completed, GLOBALSERVE will update the status of the call on the remoteservicedesk.com system.

#### On-site Representation

All engineers attending a Customer site will present themselves as authorised sub-contracted WORLDSPAN engineers.

#### Reporting Provisions

GLOBALSERVE will supply written reports to WORLDSPAN on a monthly basis. These reports will include but may not be limited to:

- 1) Performance against Service Levels
- 2) Number of faults logged by country
- 3) Exceptions
- 4) Call breakdowns by device type
- 5) Recommendations
- 6) Management review
- 7) Out of scope activities

Service Delivery ManagerGLOBALSERVE will maintain an above country Service Delivery Manager ('SDM') who will have ultimate responsibility for the management and delivery of services within agreed Service Levels to WORLDSPAN. The SDM will attend monthly meetings with WORLDSPAN, for the purpose of status/performance reviews. Monthly status meetings will include, but not be limited to, a review of the top five common hardware problems and solutions. Such reviews will cover issues including but not limited to:

- 1) Most common faults and solutions
- 2) GLOBALSERVE's performance against Service Levels

- 3) Parts availability
- 4) Cover provided for non-registered equipment and/or locations.

#### Commercial Management

GLOBALSEVE will maintain an above country Account Manager who will have ultimate responsibility for the commercial management of the WORLDSPAN/GLOBALSEVE relationship.

#### Equipment Inventory Database

WORLDSPAN shall provide GLOBALSEVE with a full inventory database ("Equipment database") monthly. Such Equipment Database shall be provided to GLOBALSEVE electronically and shall detail the total database of equipment for which Services will be provided by GLOBALSEVE.

#### Additions and Deletions

Equipment installed or de-installed during any month will be added or removed, as appropriate, from billing on the first day of the following month. Credits and retroactive billing will be considered only for services rendered during the previous six (6) months.

#### New equipment

WORLDSPAN may request GLOBALSEVE to add different types of Equipment to Service which are substantially similar to existing Equipment, with respect to architecture, technology, failure rates and support costs. Such Equipment may be added to this Agreement at the prices set forth in Attachment 3. For other equipment, GLOBALSEVE will calculate an appropriate price and upon agreement with WORLDSPAN, the new item will be added to the Services provided. GLOBALSEVE will not unreasonably refuse to accept additional Equipment to be covered by the Agreement.

#### Failure to Supply Equipment

Where WORLDSPAN has agreed to provide spare equipment, WORLDSPAN agrees that where WORLDSPAN is unable to supply parts or equipment to GLOBALSEVE in connection with performing the Services, WORLDSPAN and GLOBALSEVE will agree a suitable course of action. Failure to meet Service Level Targets due to the unavailability of such parts or equipment shall be excluded from all performance measures when GLOBALSEVE notifies WORLDSPAN of such unavailability within the appropriate Service Level Target period.

Repair or Replace

GLOBALSERVE shall have the sole discretion as to whether Equipment shall be repaired or replaced in connection with performing the Services. In the event that replacement Equipment is of a different make or model than existing Equipment, GLOBALSERVE may use substitute equipment by agreement from both parties, which approval shall not be unreasonably withheld.

Storage

GLOBALSERVE shall be responsible for and carry the risk and expense of warehousing, delivery to site, unloading, installing and removal from site of all Equipment and parts and other items necessary for or provided in connection with the Services.

**Attachment 2**  
**SERVICE LEVELS**

**Description of Workflow**

A repair shall be deemed complete when Equipment is fully operational.  
The following Service Levels are applicable from service request to call closure:

<b>Activity</b>	<b>Who</b>	<b>By When</b>
Initial call is logged on the WORLDSPAN helpdesk.	By the Travel Agent	No Service Level
Details of the call are entered into the remotesservicedesk.com system	By the WORLDSPAN helpdesk	No Service Level
The call is processed and assigned to a GLOBALSERVE service fulfilment agent	By the GLOBALSERVE International Service Desk	Within 15 Minutes of the call being entered into the remotesservicedesk.com system
The Travel Agent is contacted and given an estimated arrival time of the GLOBALSERVE service fulfilment agent engineer.	By the GLOBALSERVE service fulfilment agent helpdesk.	Within 1 hour of the call being entered into the remotesservicedesk.com system
The GLOBALSERVE service fulfilment agent engineer arrives on site	GLOBALSERVE service fulfilment agent engineer	No Service Level
The repair is completed either: by repairing or replacing individual components. or by replacing the complete faulty unit.	GLOBALSERVE service fulfilment agent engineer	Within 6 hours of the call being entered into the remotesservicedesk.com system.
The GLOBALSERVE service fulfilment agent helpdesk is informed that the repair is completed.	GLOBALSERVE service fulfilment agent engineer	Before 12:00 midday the day following the engineer's attendance to site.
The call is changed to show a 'Closed' (or equivalent) status on the remotesservicedesk.com system	GLOBALSERVE service fulfilment agent helpdesk	Immediately following the completion of the on-site repair.
		No Service Level

The 'Repair Time' Service Level(s) will not be applied where:

- 1) A specific and agreed exception has been made for the particular location. All such exceptions will be documented in the *Service Definition Document*.
- 2) A Customer specifically requests a delay in the repair (e.g. they wish to schedule a fixed time for the repair).
- 3) The repair requires technical advice from the WORLDSPAN Technical Support team.
- 4) Issues involving access to site prevent the completion of a timely repair.
- 5) The provision of service falls under the Out of Hours support criteria. In such cases a Service Level is to be agreed by the parties.

In all such cases, activities will be deemed as not applicable for the purposes of Service Level measurement or related penalties.

#### Updates to remotesservicedesk.com

Over the period from the initial logging of the call by the WORLDSPAN helpdesk and the completion of the repair, the call history will be updated a minimum of five times on the remotesservicedesk.com system. These minimum five incidents are:

- 1) Call logged. This will be entered by the WORLDSPAN helpdesk.
- 2) Call processed and assigned to a GLOBALSERVE service fulfilment agent. The GLOBALSERVE International Service Desk will enter this information.
- 3) Confirmation that the Travel Agent has been contacted to confirm the estimated arrival time of the engineer. This will be entered by the GLOBALSERVE service fulfilment agent helpdesk.
- 4) Confirmation that the engineer has been dispatched to attend site. This will be entered by the GLOBALSERVE service fulfilment agent helpdesk.
- 5) Confirmation that the repair has been completed. This will be entered by the GLOBALSERVE service fulfilment agent helpdesk.

#### Escalation Procedures

Escalation procedures will be provided by GLOBALSERVE and WORLDSPAN for each process and associated Service Level. Such procedures are comprehensively documented in the *Service Definition Document*.

### Targets

GLOBSERVE service fulfilment agents will maintain Repair Time Service Levels through a combination of strategically placed spare components and whole unit swap outs. GLOBSERVE will endeavour to obtain a first time fix wherever possible.

GLOBSERVE will perform to such a degree to meet or exceed the Repair Time Service Level targets shown the table below:

	January 2000	February 2000	March 2000	April 2000	May 2000	June 2000
Target	55%	60%	70%	80%	85%	85%
	July 2000	August 2000	September 2000	October 2000	November 2000	December 2000
Target	85%	85%	85%	85%	85%	85%

### Performance Measurement

The above targets will be measured as the performance of GLOBSERVE against all calls and will fully reflect local and specific Service Level commitments.

### Applicable Hours for Service Level Measurement

Information on applicable hours for Service Level measurement are documented in the *Service Definition Document*.

### Applicable Service Levels by Specific Location

Information on applicable hours for Service Level measurement are documented in the *Service Definition Document*.

### Performance Incentives

For the purposes of calculating performance incentives, achievement against Service Levels will be measured over a four-month rolling period. If GLOBSERVE fails to meet the Repair Time target Service Level(s) for any single month over the four-month rolling period then no penalties are applicable. If GLOBSERVE fails to meet the Repair Time target Service Level(s) for a second month over the four-month rolling period then WORLDSPAN, at its sole option, may deduct 1% of the monthly payment for that month. If GLOBSERVE fails to meet the Repair Time target Service Level(s) for a third month over the four-month rolling period then WORLDSPAN, at its sole option, may deduct 3% of the monthly payment for that month. If GLOBSERVE fails to meet the Repair Time target Service Level(s) for a fourth month over the four-month rolling period then WORLDSPAN, at its sole option, may deduct 6% of the monthly payment for that month.

Attachment 3  
FINANCIAL TERMS

Fee Schedule

The following fee schedule applies to this Agreement:

	<u>Invoice/ Fee Payment</u>
December 1999	£200,000.00
January 2000	£245,000.00
February 2000	
March 2000	
April 2000	£148,333
May 2000	£148,333
June 2000	£148,333
July 2000	£148,333
August 2000	£148,333
September 2000	£148,333
October 2000	£148,333
November 2000	£148,333
December 2000	£148,333
<b>Total</b>	<b>£1,780,000.00</b>

All prices are shown exclusive of VAT.

Years two and three will be invoiced at the amount of GBP £148,333 monthly in arrears

Additions to the Agreement

WORLDSPAN will provide updates to the list of assets and locations that are covered by this Agreement to GLOBALSERVE on a monthly basis. All additional units will be added to the scope of this contract and charged over and above the agreed threshold of 9980 PCs and 5829 Printer at the rate of £150 per unit per year for PC's and GBP £ 75 per unit per year for Printers, pro-rated monthly.

Payment

Globalserve will issue a initial £ 200,000 invoice in advance, followed by the first quarter in January. Thereafter GLOBALSERVE will invoice monthly in arrears. Additional equipment will be pro-rated to the Agreement and paid each month on a separate invoice.

All GLOBALSERVE invoices will be approved by a WORLDSPAN co-ordinator, prior to payment to ensure satisfactory completion of all activities

Attachment 4

Remoteservicedesk.com DATABASE ACCURACY

Provision of Data Updates

WORLDSPAN will provide GLOBALSERVE on a monthly basis with updates to the list of locations that are covered by this Agreement. This update will be in a standard format as may be determined from time to time by GLOBALSERVE.

WORLDSPAN will provide GLOBALSERVE on a monthly basis with an update to the list of assets that are covered by this Agreement. This update will be in a standard format as may be determined from time to time by GLOBALSERVE.

Updates to Login IDs and System Security

As a universally available system WORLDSPAN understands that it remains the responsibility of WORLDSPAN to maintain a high degree of control over the allocation and usage of access rights. WORLDSPAN will accept complete responsibility for any misuse or abuse of the access rights to the remoteservicedesk.com system by all current authorised users where:

- 1) Those users have been granted access at the request of WORLDSPAN.
- 2) WORLDSPAN has not properly and formally requested the removal of those access rights at least four working hours (UK time) before such use or abuse.

A current authorised user is a person or group of persons who have been granted access rights to the remoteservicedesk.com system. Any such user shall be deemed for the purpose of this Agreement as an 'Authorised User' for a period of 4 working hours (measured in UK time) after a request for the removal of access rights has been confirmed by WORLDSPAN as received by GLOBALSERVE.

GLOBAISERVE will be given immediate notification of any required login changes to prevent security breaches (leavers/new-hires etc.). This notification will be in a standardised format as may be determined from time to time by GLOBALSERVE and agreed by WORLDSPAN. GLOBAISERVE will act upon all properly submitted formal requests to remove access rights within four standard UK working-hours.

GLOBAISERVE will accept complete responsibility for any misuse or abuse of the access rights to the remoteservicedesk.com system by all authorised users where:

Those users have been granted access by GLOBAISERVE without a request from WORLDSPAN

WORLDSPAN has properly and formally requested the removal of those access rights at least four working hours (UK time) before any such misuse or abuse.

#### Cover for Non-Registered Locations and Assets

Should a call be issued for a location not present in the remoteservicedesk.com database and where GLOBALSERVE has not had sufficient formally submitted notification of the addition(s) then GLOBALSERVE will treat the location as 'within scope'. All other issues such as database updates and commercial considerations will be treated as secondary to the repair. Such incidents will be deemed as not applicable for the purposes of Service Level measurement or related penalties. Such incidents will be highlighted and discussed at the monthly review meetings.

Should a call be issued for equipment not present in the remoteservicedesk.com database and where GLOBALSERVE has not had sufficient formally submitted notification of the addition(s), and then GLOBALSERVE will treat the asset as 'within scope'. All other issues such as database updates and commercial considerations will be treated as secondary to the repair. Such incidents will be deemed as not applicable for the purposes of Service Level measurement or related penalties. Such incidents will be highlighted and discussed at the monthly review meetings.

#### Knowledge Database

As a feature of the remoteservicedesk.com system GLOBALSERVE will provide the means by which a knowledge base of common faults, technical data, repair solutions and so on may be searched and viewed via a web browser interface by all current authorised users.

WORLDSPAN will be given complete access to the knowledge base system and may use it as their internal technical data store should they be so inclined.

GLOBAISERVE will make the raw data contained within the knowledge base section of the remoteservicedesk.com database available to WORLDSPAN at the end of this Agreement. This raw data will be supplied upon request in an electronic format to be mutually agreed at the time. This specifically does not include the provision of the source code for the application or any part thereof.

#### Access to the WORLDSPAN Network

WORLDSPAN understands that for testing purposes GLOBALSERVE service fulfilment agent Engineers may require system access in order to effectively resolve a fault.

WORLDSPAN will provide sufficient access rights to their system for all necessary repair activities. Such rights will be provided in advance of any attendance to site.

#### Access to WORLDSPAN Software/Updates

CD ROMs containing 'Ghost' images of software builds will be provided by WORLDSPAN for the specific use of GLOBALSERVE service fulfilment agent helpdesks and field engineering staff.

All expenses incurred by the provision of software will be met by WORLDSPAN.

Attachment 5

OUT OF SCOPE SERVICES

Out of Scope Services represent those services performed by GLOBALSERVE outside of Monthly Maintenance Services. Out of Scope Services are available to augment remedial and/or preventive maintenance provided by GLOBALSERVE to Equipment subject to service under this Agreement. Out of Scope Services are excluded from all performance metrics and shall be billed on a per incident basis, at the rates set fourth in Attachment 2.

Specific out of scope services include but are not limited to:

- 1) The provision of consumable products such as printer cartridges, ribbons etc.
- 2) The resolution of issues relating to WORLDSPAN Host Access
- 3) The repair of equipment failures during initial installation or services in connection to an incomplete installation, after verification with WORLDSPAN (for the purposes of this Agreement an installation is complete when all hardware and software is functional and the Customer has achieved WORLDSPAN host connectivity, when applicable)
- 4) The resolution of data communication problems originating from unsupported equipment
- 5) The resolution of problems resulting from improper or inadequate environmental control, such as temperature or humidity;
- 6) The delivery of any service to equipment that is not owned by WORLDSPAN or is not part of local spare stocks held by the GLOBALSERVE service fulfilment agents.
- 7) The repair of equipment faults caused by customer abuse, accidental damage, vandalism, intentional misuse, criminal acts, fault related to or conflict with Customer provided third party software or millennium (Y2K) related system faults
- 8) The performance of services to install consumables or accessories, except for platens and print heads, making specification or field engineering changes; performing services connected with relocation of the Equipment; or adding or removing accessories, attachments or other devices;
- 9) The provision of services connected to back office accounting products (e.g. AS400 equipment), whether maintained by another third party maintenance vendor or not
- 10) The repair of cabling installations other than a drop cable to a floor point or other nearby PC, or from a Gateway PC to a modem.
- 11) The repair of third party equipment not included in the schedule (e.g. Speakers, additional cards, or other such equipment not provided for the specific purpose of access to WORLDSPAN systems or services)
- 12) The alteration of any non-WORLDSPAN software applications or systems.
- 13) The reloading of any software applications or operating systems not provided by WORLDSPAN as a CD ROM image to be loaded using standard installation procedures.

Attachment 6

TERRITORIES AND PRINCIPLE HOURS OF BUSINESS

Geographical Coverage

Services will be provided to locations situated within Austria, Belgium, Denmark, Egypt, Finland, France, Germany, Hungary, Ireland, Israel, Italy, Gibraltar, Greece, Lithuania, Luxembourg, Netherlands, Norway, Poland, Portugal, Romania, South Africa, Spain, Sweden, Switzerland, Turkey and the UK.

GLOBAISERVE service fulfilment agents will deliver services to all locations listed in the paragraph above with the exception of Egypt, Israel, Greece and South Africa. In these four countries GLOBAISERVE will work with the incumbent contractor. For the purposes of this Agreement these incumbent contractors will be deemed 'GLOBAISERVE service fulfilment agents'.

Extension of the Service into new Territories

It may be possible over the course of the contract that service coverage may need to be extended into new countries not covered by the current agreement. In such circumstances GLOBAISERVE will be given a minimum notice period of ten-weeks before the required commencement of such services.

Out of Hours Support

For nominated accounts in certain countries, WORLDSPAN may require repairs outside of the time-frames defined in Attachment 2 of this document.

In such circumstances GLOBAISERVE will be given a minimum notice period of six-weeks before the required commencement of such services and all such work will be authorised by WORLDSPAN for overtime charges where applicable. Additional management charges may also be applicable for the provision of such services.

Principal Business Hours

All working hours are stated in local Territory time.

Austria	Monday - Friday	0800 -1800 hrs
Belgium	Monday - Friday	0800 -1800 hrs
Czech Republic	Monday - Friday	0800 -1800 hrs
Denmark	Monday - Friday	0800 -1800 hrs
Egypt	Sunday - Thursday	0800 -1800 hrs
Finland	Monday - Friday	0800 -1800 hrs
France	Monday - Friday	0800 -1800 hrs
Germany	Monday - Friday	0800 -1800 hrs
Greece	Monday - Friday	0800 -1800 hrs
Hungary	Monday - Friday	0800 -1800 hrs
Gibraltar	Monday - Friday	0800 -1800 hrs
Ireland	Monday - Saturday	0800 -1800 hrs
Israel	Sunday - Thursday	0800 -1800 hrs
Italy	Monday - Friday	0800 -1800 hrs
Lithuania	Sunday - Thursday	0800 -1800 hrs
Luxembourg	Monday - Friday	0800 -1800 hrs
Namibia	Monday - Friday	0800 -1800 hrs
Netherlands	Monday - Friday	0800 -1800 hrs
Norway	Monday - Friday	0800 -1800 hrs
Poland	Monday - Friday	0800 -1800 hrs
Portugal	Monday - Friday	0800 -1800 hrs
Romania	Monday - Friday	0800 -1800 hrs
Saudi Arabia	Sunday - Thursday	0800 -1800 hrs
South Africa	Monday - Friday	0800 -1800 hrs
Slovakia	Monday - Friday	0800 -1800 hrs
Spain	Monday - Friday	0800 -1800 hrs
Sweden	Monday - Friday	0800 -1800 hrs
Switzerland	Monday - Friday	0800 -1800 hrs
Turkey	Sunday - Thursday	0800 -1800 hrs
United Kingdom	Monday - Saturday	0800 -1800 hrs
Ukraine	Monday - Friday	0800 -1800 hrs